

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
 YAVAPAI COUNTY, ARIZONA
 FOR THE COUNTY OF YAVAPAI

2011 DEC -6 AM 11:46

SANDRA K MARKHAM, CLERK
 BY Stephanie Kling

STATE OF ARIZONA,)

Plaintiff,)

vs.)

Case No. V1300CR201080049

JAMES ARTHUR RAY,)

Defendant.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
 BEFORE THE HONORABLE WARREN R. DARROW

TRIAL DAY SEVENTEEN

MARCH 17 , 2011

Camp Verde, Arizona

ORIGINAL

REPORTED BY
 MINA G. HUNT
 AZ CR NO. 50619
 CA CSR NO. 8335

1 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
2 FOR THE COUNTY OF YAVAPAI
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4 STATE OF ARIZONA,)
5 Plaintiff,)
6 vs.) Case No. V1300CR201080049
7 JAMES ARTHUR RAY,)
8 Defendant.)
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I N D E X		3
EXAMINATIONS		PAGE
WITNESS		
LOU CACI		
Direct continued by Ms. Polk		30
Cross by Mr. Li		72
Redirect by Ms. Polk		163
Further Redirect by Ms. Polk		187
Further Redirect by Ms. Polk		190
Recross by Mr. Li		192
Further Redirect by Ms. Polk		193

JEANNE ARMSTRONG		
Direct by Mr. Hughes		196

EXHIBITS ADMITTED		
	Number	Page
175, 176	49	
275	60	
173, 174	103	
281, 282	135	
518	192	
320	207	

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1 Proceedings had before the Honorable
2 WARREN R. DARROW, Judge, taken on Thursday,
3 March 17, 2011, at Yavapai County Superior Court,
4 Division Pro Tem B, 2840 North Commonwealth Drive,
5 Camp Verde, Arizona, before Mina G. Hunt, Certified
6 Reporter within and for the State of Arizona.
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1 PROCEEDINGS

2 THE COURT: The record will show the presence
3 of the defendant, Mr. Ray, Mr. Li, Ms. Do. And the
4 state's present through Mr. Hughes and Ms. Polk.

5 This is the time set for some discussion
6 of legal issues.

7 Mr. Li, please be mindful of the time.
8 You wanted to raise something regarding general
9 relevance concerns. Please proceed.

10 MR. LI: Yes, Your Honor. I'll be quick. The
11 basic issue here is what the defense believes is
12 the blurring between civil corporate liability and
13 individual criminal liability.

14 In particular, I want to just point out
15 certain facts we've been noticing in the last three
16 weeks of trial. The state has elicited testimony
17 in a number of areas that we believe are irrelevant
18 to individual criminal liability. These areas
19 include whether the participants signed a medical
20 waiver or medical screening form that was required
21 to obtain a physical, whether the participant knew
22 that where JRI stored its first aid kit, whether
23 the participant knew which volunteer had medical
24 training, whether the medical training of those
25 staff members or volunteers was adequate, and

1 whether the participant new if JRI had an emergency
2 plan.

3 These, it's our position, are all
4 irrelevant for purposes of individual criminal
5 liability. And there are four principle reasons.
6 I'll run through them quickly, and I'll go into
7 detail little bit also.

8 Number 1. A corporate officer is not
9 vicariously liable for alleged crimes of the
10 corporation. I would cite the Court to the case of
11 Angelo, which I think the Court either has or if
12 the Court doesn't have, I'll provide a copy.

13 THE COURT: I'm very aware of Angelo. I'll
14 tell you right now I don't think that applies. It
15 deals with a very specific statutory duty requiring
16 an entity to file a tax return, make a tax report.

17 And the holding there was that the
18 officers who failed to do that couldn't be liable
19 because the statute says only the entity is liable.
20 So I don't find Angelo to be applicable.

21 Go ahead.

22 MR. LI: Actually, Your Honor, I would read
23 the case slightly differently. What the court
24 finds is that the constitutional minimum for
25 prosecution is laying out a specific duty for the

1 corporate officer. And because there was no
2 specific duty laid out in the Arizona code, the
3 specific officers could not be held liable.

4 All of this relates to a specific duty
5 that's laid out by statute for the individual
6 corporate officer. So I read the case quite
7 differently. I read it almost exactly the
8 opposite.

9 I understand that Angelo's holding was
10 that these officers were not liable because there
11 was no specific duty. And that's exactly the point
12 we're making here. The state has never cited any
13 specific duty that flows to Mr. Ray as opposed to
14 any corporation, any criminal duty that related to
15 Mr. Ray.

16 And in the absence of that, Angelo stands
17 for the proposition that you cannot prosecute
18 somebody consistent with due process. That's
19 No. 1. I just quote from the Arizona code. The
20 minimum requirement for criminal liability is the
21 omission to perform a duty imposed by law.

22 The allegations that the state is making
23 is that JRI failed to do any number of things --
24 failed to have adequate first aid kit, failed to do
25 all of these various things.

1 Absent a specific duty imposing upon
2 Mr. Ray, the requirement to do things just like in
3 Angelo, a specific duty imposed on a corporate
4 officer to actually file the tax return -- absent
5 that legal duty, there can be no prosecution.
6 That's what Angelo stands for.

7 And I would quote from Angelo. An
8 omission to act, an omission -- and so what the
9 state is claiming is a bunch of omissions to act --
10 can only be a crime if there is a duty to act
11 imposed by law.

12 Because the officers had no express duty,
13 they cannot be charged with the omission to perform
14 that duty and be criminally liable for the failure
15 to file the return. That's what Angelo stands for,
16 we would submit, not that it's inapplicable to
17 Mr. Ray. It's exactly applicable to Mr. Ray.

18 Secondly, the state has never pointed
19 out -- and this we would argue violates due
20 process. The state has never pointed out a
21 specific duty, legal duty, individual legal duty,
22 under the criminal law that Mr. Ray supposedly
23 violated with relation to these specific omissions.

24 We understand there is another part of
25 their case, the reckless manslaughter case. We

1 understand that. What we're talking about right
2 now is the limited issue of whether or not
3 first-aid kits and whatever -- those sorts of
4 things are relevant to this case and whether
5 Mr. Ray individually had a legal duty to do -- to
6 provide those or to be individually responsible for
7 any of those.

8 The state has never pointed out any legal
9 duty relating to that. They are required to do so
10 under due process. And just quoting Angelo, due
11 process requires that for purposes of imposing
12 criminal liability on an individual for a
13 corporation's failure, in that case to file a tax
14 return, the statute must clearly impose the duty in
15 that case to file a tax return upon an identified
16 individual.

17 The state has never identified what duty
18 they are seeking to impose on Mr. Ray criminally.
19 The Court in Far West -- which is a case that I
20 know the Court is very familiar with. This is the
21 sewage plant case -- cited Angelo with approval
22 noting in the absence of a duty imposed by law, due
23 process concerns may bar a criminal prosecution.

24 In the Far West case, the Court also
25 cited another case, State v. Lisa, which is a New

1 Jersey case. I don't know if the Court has a copy.
2 I'll be happy to provide it. In that particular
3 case, that case involved a defendant charged with
4 reckless manslaughter for failure to render first
5 aid to his companion, who had overdosed on drugs.
6 The prosecution in that case cited the restatement
7 for some concept of duty and sought to impose that
8 duty on that particular defendant.

9 The New Jersey Appellate Court reversed,
10 saying a criminal statute should be clear and
11 understandable in order to achieve two goals:
12 Notice of illegality and a clear standard for
13 enforcement.

14 So, in other words, plucking a duty out
15 of the restatement is not enough. It has to be
16 clear. It has to be statutory or it has to be
17 beyond dispute.

18 And the point that we're making here,
19 Your Honor, is that the state has never taken the
20 time to identify what particular duty Mr. Ray
21 individually has as a criminal defendant that
22 renders all of these issues relevant about
23 first-aid kits and what have you. They've never
24 done that, and they bear the burden, and they must
25 do that.

1 One point, Your Honor. The idea that we
2 should just put on evidence and see if we can find
3 the duty, and which I think -- you know -- this
4 will all be sorted out after we've heard the
5 evidence, is not appropriate.

6 The court -- the supreme court has
7 said -- the supreme court in Arizona has said a
8 fact-specific analysis of the relationship between
9 parties is a problematic basis for determining if a
10 duty of care exists. The issue is not a factual
11 matter. It is a legal matter to be determined
12 before the case-specific facts are considered.
13 Accordingly, this court, this is the Arizona
14 Supreme Court, has cautioned against narrowly
15 defining duties of care in terms of parties'
16 actions in particular cases.

17 The cite is Gipson v. Kasey --

18 THE REPORTER: I'm sorry.

19 MR. LI: Gipson, G-i-p-s-o-n, v. Kasey, with a
20 "K," 214 Ariz. 141 203. I'm sorry. 2007.

21 This is a case that has more to do with
22 how the process should be, how the Court should
23 examine issues of duty. It's not about
24 manslaughter or what have you. It's more about
25 that it's a question of law and not necessarily a

1 question of fact. And it's up to the Court to
2 determine that.

3 All of these points lead to the
4 conclusion that because the state has never
5 identified a legal duty, a legal criminal duty,
6 against Mr. Ray as an individual, all of this
7 testimony is irrelevant and should be stricken.

8 I'm going to give two more points, Your
9 Honor. And I think these have been put in our
10 various filings as well. I think it's important
11 that we -- you know -- surface this issue again.
12 We've heard a lot about this, about the high school
13 coaches and that sort of thing.

14 There is a basic relevance issue. There
15 is no evidence that the existence of a medical
16 screening form or that had somebody gotten a
17 physical and gotten checked off before they came to
18 the seminar -- there is no evidence that that would
19 have -- has any causal relationship to the deaths.

20 It simply what Justice Cardozo calls
21 "negligence in the air." It's just untethered to
22 any causation. And that renders it irrelevant for
23 purposes of this case.

24 I'll give you another example. The
25 first-aid kit. I've done some internet research

1 about heat stroke, about treatment for heat related
2 illness and what have you. They show you. There
3 are pictures of what a first-aid kit should look
4 like to treat people who have overheated. It's,
5 basically, water, towels, a fan, and in extreme
6 cases for hospitals, things like catheters and what
7 have you so that you can put chilled I.V. fluids
8 into a person.

9 That's not a first-aid sort of scenario
10 where you -- I mean, you don't have that at a
11 football practice where people or coaches are
12 supposed to stick I.V.s into their patients. It's
13 towels, water, and air. And that was all there at
14 the scene.

15 And what the state keeps on doing is
16 eliciting from various witnesses who don't have any
17 training in this, don't have -- frankly, don't have
18 foundation to know what safety measures were or
19 were not in place and just seeks over and over to
20 elicit from them, did you know there was a
21 first-aid kit.

22 And all of that is irrelevant. None of
23 it has anything to do with why these folks passed
24 away. All of this is prejudicial under 403 --
25 unduly prejudicial. It suggests to the jury there

1 was some kind of duty or that there was some kind
2 of deficiency.

3 For instance, Ms. Polk and Mr. Hughes
4 repeatedly asked these various witnesses, are you
5 aware of any safety plan? Were any safety plans
6 discussed? Well, what exactly does that witness
7 think "safety plan" means?

8 There were volunteers inside. There were
9 volunteers outside. There was water outside to
10 cool people. There were electrolytes, Mr. Ray told
11 them how to get out safely. Those all could be
12 considered safety plans.

13 But the way the state posits it suggests
14 there needs to be something else, some other form
15 of a safety plan, something broader than that. It
16 implies some kind of duty that simply under the law
17 doesn't exist.

18 And so as a consequence, Your Honor, we
19 fear that Mr. Ray's due process rights are being
20 violated and his rights to a fair trial are being
21 violated because the state just throws in
22 inflammatory arguments and questions about things
23 that have no legal relevance.

24 For that reason, Your Honor, we'd move to
25 exclude any more questioning about that, move to

1 strike the prior questions and answers related to
2 that topic.

3 THE COURT: Thank you, Mr. Li.
4 Mr. Hughes?

5 MR. HUGHES: Thank you, Your Honor. Your
6 Honor, the state is obligated in this case to
7 establish proof beyond a reasonable doubt that the
8 defendant violated 13-1103. The Far West case,
9 which primarily dealt with the liability of a
10 corporation for the conduct of its officers, also
11 discussed the prosecution of those officers.

12 And Far West, I think, has illustrated
13 some of the issues in this case. But there is an
14 important distinction between the Far West case and
15 the other cases Mr. Li cited in this case that we
16 are prosecuting in the courtroom.

17 Today's case against Mr. Ray involves a
18 prosecution of Mr. Ray for Mr. Ray's reckless
19 conduct. We're not prosecuting him for the conduct
20 of the other JRI employees. We are not asking
21 questions along the lines did JRI, the corporation,
22 have, for example, a first-aid kit.

23 We're asking did -- was there a first-aid
24 kit out there where Mr. Ray was conducting this
25 ceremony? The evidence to date has been that

1 Mr. Ray has controlled virtually if not every
2 aspect of what happened during the Spiritual
3 Warrior event. The prosecution is for Mr. Ray's
4 conduct, not for the conduct of other employees.

5 With respect to the relevancy of
6 questions along the lines of was there a first-aid
7 kit available or did Mr. Ray advise you of safety
8 precautions to take inside the sweat lodge, those
9 issues go to what a reasonable person in Mr. Ray's
10 situation should have done.

11 We're going to have testimony, we hope,
12 when we address the Steve Pace ruling about what a
13 leader of a program, an outdoor program, should do.
14 That testimony will go to the element of what a
15 reasonable person should do.

16 But this evidence that we're presenting
17 is along those lines. If you're putting on a
18 program and you're 40 minutes away from the nearest
19 hospital, that's relevant as far as what safety
20 precautions do you take.

21 Mr. Li's internet research
22 notwithstanding, the first-aid kit could have
23 included things like an automated defibrillator.
24 It could have included things like oxygen. We know
25 that when the paramedics arrived, people were

1 receiving CPR. In fact, we're going to have a
2 witness today who is a medical doctor who was in
3 the sweat lodge. And I suspect that she's going to
4 testify something along the lines she was surprised
5 there wasn't an automated defibrillator on the
6 scene that could have made a difference for the
7 people receiving CPR, could have made a substantial
8 difference in their outcome.

9 So to say that internet research shows
10 the only thing you can do is put some water on
11 them, I think that overlooks the facts of the
12 testimony we received so far, which is people
13 were -- their hearts had stopped and were having
14 CPR.

15 If there had been an ambulance on scene,
16 if Mr. Ray had had an ambulance there, if he had
17 more adequate safety precautions, those are the
18 sorts of things that a reasonable person in his
19 situation should have performed. And remember,
20 it's the state's duty to show gross deviation from
21 that reasonable-person standard.

22 That's the relevance of questions along
23 those lines is establishing did Mr. Ray deviate
24 from that standard of a reasonable person in his
25 situation or did he not deviate from that standard.

1 THE COURT: Thank you, Mr. Hughes.

2 MR. LI: Your Honor, I think Mr. Hughes'
3 argument just illustrates the problem with this
4 entire prosecution. The charged crime is whether
5 Mr. Ray knowingly disregarded a substantial and
6 unjustifiable risk of death, that he knew somebody
7 was dying and disregarded that.

8 It's a subjective standard, the charged
9 crime. And they've not dismissed that charged
10 crime. And, in fact, the beginning of Mr. Hughes's
11 argument was that Mr. Ray is charged with
12 recklessly causing three people's deaths.

13 As their arguments proceeds, we start
14 hearing words like "should have." And those are
15 all objective standards relating to a negligence
16 standard.

17 If we're going to have a prosecution
18 along the lines of negligence, then what Mr. Hughes
19 is arguing about is the omission of various
20 things -- first-aid kit, a more robust first-aid
21 kit, the likes of which he would like to have; an
22 ambulance, whatever the various things he thinks
23 should have been there.

24 If that's the argument and that there was
25 some omission on the part of JRI to provide those

1 things, the only way criminal liability can attach
2 to Mr. Ray individually is if there is a duty that
3 the state identifies. And that is a well-accepted
4 either statutory duty or a duty beyond dispute.
5 That's what the case law holds, Your Honor.

6 What the state does is just blur it all
7 together. And the state has yet to identify that
8 duty. And that's the due-process problem. We
9 don't know exactly what we're fighting against. Is
10 it a reckless manslaughter, or is it a negligent
11 homicide? Is there a duty that the state can
12 identify? Do they have any argument as to what
13 that duty might be? Is there any case law out
14 there?

15 Mr. Kelly points out an example that I
16 will share with you quickly. But this is somebody
17 gets drunk. The state's argument is if somebody
18 gets drunk, goes driving, as long as there's a van
19 following behind him with a -- filled with doctors
20 and CPR kits and everything else, then there
21 wouldn't be a negligence crime because you've cured
22 it by having enough support following behind you.

23 That's not what the law is. The law
24 requires the state to identify a duty that Mr. Ray
25 had. They've never done that.

1 THE COURT: Mr. Hughes, what is the basis of
2 the duty? And secondly, who determines that? Who
3 determines existence of that? Is that a jury
4 question? Is that a Court question?

5 MR. HUGHES: It would be a Court question if
6 the state was proceeding on the theory that a duty
7 was required. In this particular case -- for
8 example, the Angelo case talked about an employee's
9 duty. And I agree that Angelo would not apply to
10 this case because the duty that was being sought to
11 be placed on the employee was a duty that was on
12 the corporation and by it's expressed terms
13 couldn't be placed on the employee.

14 In the Far West case duties that are
15 referred to are duties that are referred to in that
16 case for purposes of showing the corporation is
17 criminally liable for violations by the employee.

18 In this case we're not trying to show the
19 corporation is criminally liable. The state
20 doesn't have to show a duty that this defendant
21 breached. The state has to show that the defendant
22 acted recklessly as it's defined --

23 THE COURT: Just a second, Mr. Hughes. Are
24 you saying that the duty comes from the criminal
25 statute itself?

1 MR. HUGHES: No. What I'm saying is the line
2 of cases that discuss duty are discussed in
3 connection with holding a corporation liable for an
4 employee's acts or holding an employee liable for
5 corporation's act. That's a different case.
6 Notwithstanding the defendant's argument, that's a
7 different case than we have here.

8 In this case we're attempting to hold
9 Mr. Ray liable for his own acts, not for the acts
10 of the corporation. There is certainly no
11 prosecution against the JRI corporation to show
12 that it's liable for Mr. Ray's acts.

13 THE COURT: My question, then, is are you
14 saying with regard to Mr. Ray and what the state
15 wants to prove, you don't have to have a duty
16 independent of what's defined in the criminal
17 statutes? Is that what you're saying?

18 MR. HUGHES: That's what I'm saying. And I do
19 believe the Far West bears that analysis out. Far
20 West talks about the fact that the state
21 established a violation of the manslaughter statute
22 and also that it established violations of the
23 duty. And they're independent of each other.

24 Where the duty becomes important is when
25 you're attempting to hold someone else, either the

1 corporation liable for the employee's act or the
2 employee liable for the corporation's act. Those
3 line of cases discuss duty as a necessary element,
4 discuss it in that connection.

5 THE COURT: I think there has to be a duty
6 independent of the criminal statutes. That's the
7 way I've read the law. And I think the Far West
8 case gets into that with the initial issue as to
9 whether or not the code abolished a potential duty
10 saying there is no longer common law offenses.

11 MR. HUGHES: Your Honor, 13-201, which is
12 discussed in the Far West case -- it says the
13 minimum requirement for criminal liability is the
14 performance by a person of conduct which includes a
15 voluntary act or the omission to perform a duty
16 imposed by law.

17 In this case the state is alleging that
18 there is the voluntary act. The 13-201 sets forth
19 two separate ways that criminal liability can be
20 performed. And I would submit again that the
21 cases, the Angelo case, but more particularly the
22 Far West case and the other cases that discussed
23 duty, are always in connection with either holding
24 a corporation liable for the employee's act or the
25 employee liable for the corporation's act.

1 THE COURT: Thank you.

2 The question of what was available in
3 terms of first aid during the 2009 event, that just
4 goes to the context in what was happening, what
5 Mr. Ray might have known. It's relevant in that
6 sense.

7 I think there is a real issue as to the
8 relevance of negligence evidence and testimony. I
9 have difficulty in seeing the relevance of
10 Mr. Pace's testimony to a charge of reckless
11 manslaughter. The Far West case spends a lot of
12 time talking about awareness of these regulations
13 and acting completely contrary to what these very
14 educated people knew were the dangers inherent in
15 those confined-space situations. And that --
16 that's recklessness.

17 So I don't understand, and I've said this
18 right along, having evidence come in for a lesser
19 included, a potential lesser included -- it is
20 charged. And I've indicated under Arizona law
21 there is notice to the defense of lesser included.
22 That's what the law says. Whether there is
23 ultimately a lesser included instruction, that's a
24 different matter, and whether or not it goes as a
25 lesser included.

1 But to have evidence come in on a lesser
2 included that's only relevant to a lesser included,
3 that's what came up in the 404(b). And I see it
4 surfacing again. So I have a lot of difficulty
5 with what I'm seeing in terms of an argument for
6 relevance of Mr. Pace's testimony, for example.

7 But for today, with regard to the 2009
8 sweat lodge, what was out there in terms of first
9 aid and that kind of thing, I think it bears on
10 potential knowledge, arguably bears on potential
11 knowledge, of Mr. Ray. And it's relevant just in
12 that to really set the scene and what somebody
13 knows.

14 Mr. Hughes.

15 MR. HUGHES: Thank you. Your Honor, I know
16 Your Honor has informed us that you want us to
17 argue the issue with regard to Mr. Pace at a later
18 time. And certainly we're prepared to do that. So
19 I won't go into the Mr. Pace matter.

20 THE COURT: I do. But I did want to let you
21 know, after I looked at this last night and again
22 this morning, and I've really indicated that
23 before, I question the relevance of that testimony.

24 MR. HUGHES: I understand that. We'll focus
25 our argument on that area.

1 MR. LI: Your Honor, one quick housekeeping
2 matter. I understand the issue with relation to
3 first aid. What about questions about medical
4 screening? What about coaches in high school, all
5 those sorts of things?

6 THE COURT: Some of that testimony came up
7 really as a result of cross-examination, I think.
8 That's the way I saw it. You got into fairly
9 deeply about what sports people participated in. I
10 think it came up in that context.

11 Mr. Li, go ahead.

12 MR. LI: My recollection is that -- you
13 know -- I can't recall exactly which context it
14 came up in. I mean, I think he said he was a
15 marathoner on direct and what have you. Ms. Do
16 asked questions about his marathoning and
17 triathlons.

18 And then on redirect Ms. Polk spent a
19 fair amount of time asking questions about safety
20 plans in high school, what the coaches did, did
21 they check in on people. I mean, there are so many
22 reason why that's not relevant to this case, among
23 others, that there actually is a legal duty between
24 a coach and his minor wards at a high school.
25 There are a lot of that sort of thing.

1 So the question is, is the state going to
2 be permitted to go into those areas?

3 MR. HUGHES: Your Honor, this is the first
4 time in Mr. Li's argument he brought up the
5 coach-in-high-school issue. With respect to that
6 issue, the coach in high school, those are areas
7 we've always brought up on redirect. The defense
8 brings and delves into what were the risks
9 associated? What were the -- did you feel good
10 after competing in these sports or the karate
11 competitions.

12 The defense delves into those areas on
13 cross-examination. It's not something we've delved
14 into in our direct. Once the defense delves into
15 that, brings that up, the state is entitled to
16 appropriate cross-examination.

17 If the defense doesn't delve into it on
18 their cross, then we won't be going into it on our
19 redirect.

20 THE COURT: That's my recollection is how this
21 is coming up. It's after rather detailed
22 cross-examination about someone's experience in a
23 spot or marathon running.

24 MR. LI: That's not just the standard, Your
25 Honor. If the defense wants to bring up

1 cross-examination about choice and a particular
2 witness's understanding of life and the choices
3 that they make and whether they sign waivers and
4 they understand what those waivers mean, that's one
5 thing.

6 It's another thing, then, for the state
7 to say that opens up the door to bringing in
8 irrelevant information about a coach in high school
9 and to discuss -- you know -- frankly, Your Honor,
10 a negligence issue when we are dealing with a
11 recklessness case.

12 One thing is -- the state has elicited
13 from a number of witnesses who say things like I
14 had no idea what was going to happen. I didn't
15 know there was going to be a sweat lodge. I didn't
16 know any of this.

17 And we have a right to say you know what.
18 You actually did. You were given this waiver. And
19 you know what. You actually make other choices
20 like this in your life. And you know what. You
21 have the right to make choices at any time in your
22 life to do anything you want. That is actually a
23 relevant part of this case.

24 For instance, it might be legally a
25 superseding cause. An individual's choice might be

1 a legally superseding cause under the statute,
2 which would sever criminal liability to Mr. Ray.
3 So we can ask exactly those questions of every
4 single witness that gets up there.

5 That doesn't then open the door for the
6 state to then ask whatever questions it wants to
7 ask about, as I said, high school coaches, about
8 you safety plans at football games, all those sorts
9 of things.

10 We're not talking about a negligence
11 case. The state has repeatedly said this is a
12 reckless manslaughter. They're charging Mr. Ray
13 with his actions, not omissions that are required
14 under a legal duty. Because the state hasn't
15 supplied a legal duty. They don't have a legal
16 duty.

17 So the only charge they're making is that
18 Mr. Ray was reckless. So that's why what
19 Mr. Hughes says is just not -- we're not opening
20 the door to irrelevant testimony. We are talking
21 about things that go right to the heart of
22 causation. People chose to do this.

23 MR. HUGHES: Your Honor, I would point out,
24 for example, when Ms. Do is asking, you had a
25 choice to compete in karate and you can get injured

1 in those competitions, it then becomes an issue
 2 what impacted his decision to make those choices.
 3 Was it a safe sport? Did he have an instructor who
 4 was telling him when he was prepared to go perform
 5 in that competition?

6 Those issues, once they delve into, well,
 7 you felt like you could make that choice, it then
 8 becomes relevant the factors that were influencing
 9 the making of that choice.

10 THE COURT: I'm just going to listen carefully
 11 to cross-examination and see where it goes from
 12 there. That's what I've tried to do to this point
 13 anyway.

14 MR. LI: Thank you, Your Honor.

15 MR. HUGHES: Thank you.

16 THE COURT: We'll get the jury in as soon as
 17 we can. Thank you.

18 (Recess.)

19 THE COURT: The record will show the presence
 20 of the defendant, Mr. Ray, the attorneys, the jury,
 21 and Mr. Caci has returned to the witness stand.
 22 He's under oath.

23 Ms. Polk, when you are ready.

24 MS. POLK: Thank you, Your Honor.

25 / / /

1 DIRECT EXAMINATION (Continued)

2 BY MS. POLK:

3 Q. Good morning, Mr. Caci.

4 A. **Good morning.**

5 Q. When we left off yesterday evening, you
 6 were talking about the point back on October 8th of
 7 2009 when you reentered Mr. Ray's ceremony.

8 A. **Uh-huh.**

9 Q. And you believe it was the last round?

10 A. **Yes, I do.**

11 Q. Can you describe for the jury your mental
 12 state at that time.

13 A. **Well, considering how injured I was, my
 14 injury, when I look back and ponder on this, I
 15 should not have gone back in there.**

16 Q. Do you know if you were clearheaded?

17 A. **Probably not. I mean, I guess if you
 18 look at the medical records, I went -- I got
 19 shipped to -- I believe it was Verde Valley
 20 Hospital. And they said that my oxygen level was
 21 quite low. Okay?**

22 Q. Before you -- do you know a man named
 23 Steven Ray?

24 A. **Yes.**

25 Q. And did you know -- did you meet Stephen

1 Ray during the Spiritual Warrior 2009 seminar?

2 A. **Yes, I did.**

3 Q. Did you know him from any prior seminars?

4 A. **No, I did not.**

5 Q. Did you ever know where Stephen Ray was
 6 seated inside the sweat lodge?

7 A. **Sheila, I don't know. But here's what I
 8 know: I saw him gasping for air when he came out.
 9 He was laying there.**

10 Q. And that's actually what I want to ask
 11 you about. When was it that you became aware of
 12 Stephen Ray?

13 A. **When was it when I became aware of
 14 Stephen Ray? When he was laying there or --**

15 Q. When did you see him gasping for air?

16 A. **This was after the ceremony. He was
 17 laying there.**

18 Q. Did you see Stephen Ray before you
 19 reentered the sweat lodge for the last round?

20 A. **No, I did not.**

21 Q. When you went back in, you told the jury,
 22 about seeing Liz Neuman and what you did. Did you
 23 hear Mr. Ray say anything around that time when you
 24 went back in the sweat lodge?

25 A. **I can't say for sure.**

1 Q. Did you hear Mr. Ray make any comment --
 2 what comments throughout the sweat lodge did you
 3 hear Mr. Ray make?

4 MR. LI: Objection, Your Honor. Form of the
 5 question.

6 What time are we talking about? The
 7 entire sweat lodge? The last round? First round?

8 THE COURT: Ms. Polk, if you could provide
 9 some time frame.

10 Q. BY MS. POLK: At any time during
 11 Mr. Ray's ceremony, did you hear him say something?

12 MR. LI: Same objection.

13 THE COURT: Overruled. Overruled.

14 You may answer that, sir.

15 THE WITNESS: I heard him say, you're more
 16 than that. Stick it out.

17 Well, I'm not sure that's quite the exact
 18 words he said -- stick it out. But he said, you're
 19 more than that. Stay in. You're more than that.

20 I heard him say, we'll get them on the
 21 next round.

22 I'm not sure if that was being referenced
 23 to the people that were injured or not.

24 We'll treat them on the next round.

25 We'll get them on the next round.

1 And several just continued.

2 **Q.** And let's talk about when it was that you
3 heard Mr. Ray say, we'll get them. Did he say get
4 them on the next round? Get them after the round?
5 What do you recall hearing?

6 **A.** **I don't know the words specifically per**
7 **word, but we'll look after them on the next round.**
8 **Something to that effect.**

9 **Q.** Do you know whether you heard Mr. Ray
10 say, we'll look after them after the next round,
11 before you burned your arm or after?

12 **A.** **Sheila, I can't recall. I can't. Okay?**

13 **Q.** You're certain you heard him say those
14 words, though?

15 **A.** **Yes.**

16 **Q.** Did you know a woman named Linda
17 Andresano?

18 **A.** **I know Linda. She was a heavier-set**
19 **woman. I'm sorry. I don't recall her last name.**

20 **Q.** Did you know where Linda was seated
21 inside Mr. Ray's ceremony?

22 **A.** **She was right beside me.**

23 **Q.** At what point during the ceremony was
24 that?

25 **A.** **At the beginning. And then when I went**

34

1 **in on the last round.**

2 **You want me to draw it?**

3 **Q.** Yes. Show us -- first of all, remind us
4 where you were during the first round before you
5 burned your arm.

6 **A.** **Here we're going clockwise. I was here.**
7 **I believe Linda was here, and friend Bill Leversee**
8 **was here right next to me.**

9 **Q.** Was your attention drawn to Linda before
10 you burned your arm for any reason?

11 **A.** **No.**

12 **Q.** Later when you reentered for the last
13 round, was your attention drawn to Linda?

14 **A.** **Yeah. I saw her right in the exact same**
15 **spot where I was as she was -- her head was tilted**
16 **over and she was, I guess, out.**

17 **Q.** Were her eyes open or closed?

18 **A.** **They were closed.**

19 **Q.** Remind us again -- I'll give you a new
20 color -- where you sat when you came back in for
21 the last round.

22 **A.** **I came back. I sat around here between**
23 **7:00 and 8:00 o'clock, and Linda was still laying**
24 **up against the tent right here.**

25 **Q.** How was it, Mr. Caci, that you noticed

1 Linda from your position now not quite so close to
2 her in the sweat lodge?

3 **A.** **Well, the flap was open so you can --**
4 **light was coming in and you could see.**

5 **Q.** Did you intentionally look around inside?

6 **A.** **Yeah, I did.**

7 **Q.** And what else did you see?

8 **A.** **Well, the only things I can recall,**
9 **seeing her there, seeing Linda and seeing Liz**
10 **Neuman.**

11 **Q.** From your position, then, closer to the
12 flap when you went back in, did you have --
13 describe for the jury what sort of view you had of
14 Linda across that -- the lower part of the sweat
15 lodge. How well could you see her?

16 **A.** **I could see her. I was coherent. I**
17 **could see.**

18 **Q.** Did anything obstruct your view of her?

19 **A.** **No.**

20 **Q.** Did you see what her skin looked like?

21 **A.** **No. Not really. No. I just saw her**
22 **keeled over like this. Not keeled over, but just**
23 **kind of laying like this. She looked like she was**
24 **passed out.**

25 MR. LI: Objection. Move to strike.

36

1 Speculation.

2 THE COURT: Overruled.

3 **Q.** BY MS. POLK: How was her head?

4 **A.** **It was tilted over to one side. Whether**
5 **it was left or right, I can't remember.**

6 **Q.** Describe for the jury the last round from
7 your perspective. How was it?

8 **A.** **When I was in there, I -- seeing the way**
9 **Liz was, I knew that there was something terribly**
10 **wrong. I was a bit apprehensive about being back**
11 **in there, I must admit, just because of the pain I**
12 **had in my arm and -- but we finished the last**
13 **ceremony, and I was more focusing on staying,**
14 **staying awake.**

15 **Q.** Who led the last round?

16 **A.** **Mr. Ray.**

17 **Q.** Did he continue to use words?

18 **A.** **Yes. He does the ceremony. There was**
19 **a -- I'm not quite sure of the word exactly, but he**
20 **went through a complete ceremony.**

21 **Q.** Was he coherent?

22 MR. LI: Objection. Ambiguous.

23 THE COURT: You may answer that, if you can.

24 THE WITNESS: Well, I'd like to say he was
25 coherent. I mean, he finished the ceremony and

1 I --

2 MR. LI: The question is, was he coherent?
3 Was he understandable or was --

4 THE WITNESS: Yes. He was understandable.

5 THE COURT: Ms. Polk, please ask the question.
6 I'll sustain the objection on the basis
7 of the form of the question.

8 Please proceed, Ms. Polk.

9 Q. BY MS. POLK: Was Mr. Ray understandable?

10 A. Yes, he was.

11 Q. How did Mr. Ray end that final round?

12 A. Well, I can't recall the words exactly,
13 but he says, we're done, and he went out.

14 Q. Did you see Mr. Ray go out?

15 A. I'm assuming he did because I was still
16 in there.

17 Q. How did you get out? If you will just
18 show us on the overhead what direction you took to
19 get out.

20 A. Well, I -- as soon as I was -- as soon as
21 we were done, the flap came open. I guess -- and I
22 can't recall this, but someone was helping out Liz,
23 and I ended up going over to Linda and helping her
24 out because she was passed out. She was a heavyset
25 woman, and I couldn't quite lift her. So a fellow

38

1 by the name of Randy helped me. I can't remember
2 Randy's name. I believe it was Potter. It was in
3 the testimony.

4 Q. How did you and Randy get Linda out?

5 A. Well, I grabbed -- how can I describe it?
6 She was -- we kind of laid her down, and she was --
7 I guess her back would be facing me. I lifted her
8 up with my arms. I put my arms underneath her
9 armpits. You have to remember the tent is not
10 very -- you can't stand in there. So I was lifting
11 her little by little.

12 She was heavy; so I don't know -- I don't
13 know how I lifted her. But I did. And Randy was
14 helping with -- helping me. We would go, one, two,
15 three, and a big lift, and move her over a bit.

16 I felt bad. I think a couple times
17 her -- couldn't lift her as well. And I think her
18 face dragged on the ground a little bit. We wanted
19 to get her out.

20 Q. When you assisted to get Linda out, which
21 way was Linda's face facing?

22 A. Her face was -- she was facing down, down
23 onto the ground. So I had her lifted. And we'd
24 go, one, two, three, and then lift and move her
25 maybe about half a foot per time. We just kept

1 doing that until we got her out.

2 Q. Do you know where Mr. Ray was while you
3 were trying to get Linda out?

4 A. No, I don't.

5 Q. And show on this exhibit the direction,
6 then, once you picked up Linda, if you recall, what
7 direction you took to get out.

8 A. Well, the proper procedure in the sweat
9 lodge is you're supposed to go clockwise. So we
10 went this way.

11 Q. Could I ask you, Mr. Caci, why at that
12 point, if you know, why were you still concerned
13 about the proper procedure to exit that sweat
14 lodge?

15 A. Well, it's to respect the tradition and
16 the Native American culture. That's how they do
17 it. So you need to respect it.

18 Q. Is that something --

19 A. It's no different than going to church.
20 If you're in a Catholic church, you do certain
21 things. That's the just the way I proceeded in
22 there.

23 Q. Is that based on information Mr. Ray gave
24 you about the proper procedure?

25 MR. LI: Objection. Form of the question.

40

1 "That."

2 THE COURT: Sustained.

3 Q. BY MS. POLK: Once you got outside with
4 Linda, do you recall where you took her?

5 A. Well, I don't really recall. But we got
6 her out there. And I think they assisted by
7 spraying water on her. "They" meaning everybody
8 around the -- I can't tell you specifically who it
9 was.

10 Q. And then what did you do?

11 A. I remember they were trying to -- I don't
12 know -- I guess I was wandering around a little bit
13 seeing everybody and seeing where I could help out.
14 I remember I was watching someone doing CPR on, I
15 believe it was -- I couldn't see from where I was,
16 but I was told to stay back. So I can't remember
17 who they were doing CPR on.

18 Q. I'm going to put up on the overhead
19 Exhibit 144 just to orient you a little bit.
20 Direct your attention to this area, which is the
21 opening to the tent.

22 When you brought Linda out, do you see on
23 this photograph a location where you would have
24 dragged her to?

25 A. I would say maybe around here. Just

1 outside the tent right around there. I know they
2 attended to her. Can't remember who they are, but
3 someone was helping.

4 Q. Describe for the jury generally what you
5 saw once you came outside after the last round.

6 A. I saw people puking. I saw people
7 agonizing. I saw Stephen Ray foaming at the mouth.
8 It looked like his eyes were bulging out. As I
9 mentioned, it looked like -- I've seen it in
10 Hollywood, but it looked like a battleground.
11 People just laying there.

12 Q. Did you know someone named Sean Ronan?

13 A. Yes.

14 Q. Was Sean Ronan inside the sweat lodge?

15 A. Yes. Sean -- actually, I just
16 recollected something now. Sean was inside the
17 sweat lodge. He was -- right after he was done, he
18 was delirious. I know that someone helped him out.
19 I think he was stir crazy.

20 Q. Describe for us specifically what you
21 observed about Sean that makes you use those words
22 "delirious" and "stir crazy."

23 A. He was crawling back and forth. He was
24 mumbling some words. Who knows what he was saying.

25 Q. Where were you when you saw Sean crawling

1 back and forth?

2 A. I was trying to help out Linda.

3 Q. Do you know what happened to Sean?

4 A. I believe we were in the same ambulance
5 together on the way to Verde Valley.

6 Q. And do you know how Sean got out of the
7 tent?

8 A. Not really.

9 Q. You mentioned seeing somebody do CPR.
10 How was your attention drawn to that scene?

11 A. I believe -- if I was here, I saw them
12 doing CPR right about over there. And I was told
13 to stay back, and I did.

14 Q. Who told you to stay back?

15 A. I remember seeing Mr. Ray standing there.
16 And he told me to stay back, and I did.

17 Q. Okay. Do you know who they were doing --
18 did you know who they were doing CPR on?

19 A. I did not know.

20 Q. With respect to the scene, did you see
21 people being cooled down?

22 A. Being cooled down. Yes. They were
23 spraying water on the folks. And we were told to
24 drink fluids and we did.

25 Q. Did you see Liz Neuman outside?

1 A. Yeah. She was -- I can't recall. But
2 she was laying somewhere around here.

3 Can we raise this?

4 Q. Yes.

5 A. I know they were putting blankets on her.
6 I don't know. I guess it was right around here.

7 Q. Did you see anyone cooling Liz down with
8 water?

9 A. Yeah. They were getting, I guess, wet
10 towels and putting them on her body.

11 Q. Did you see whether or not Liz Neuman was
12 sprayed with water?

13 A. I can't remember. Probably she was.

14 Q. And with respect to Stephen Ray, how was
15 he being cooled down that you saw?

16 A. Well, I'm assuming it was the same
17 procedure. They were putting cool towels on and
18 spraying water. I mean, there was nothing else he
19 could really do.

20 MR. LI: Your Honor, I move to strike after
21 "I'm assuming."

22 THE COURT: Sustained. Granted.

23 MR. LI: Thank you, Your Honor.

24 Q. BY MS. POLK: This photograph that's up
25 on the overhead shows a dry -- shows dry dirt. Did

1 that -- in terms of it being dry or not dry, did
2 that change after the ceremony was over?

3 A. I can't recall. You can see here there
4 is tarps. There was, I guess, tarps laying down
5 right around here. So I know that this whole area
6 was wet.

7 MR. LI: Your Honor, I'd move to strike after
8 "I don't recall."

9 THE COURT: Sustained. And granted.

10 Q. BY MS. POLK: What can you testify to,
11 Mr. Caci, that was wet?

12 MR. LI: Your Honor, objection as to form.

13 THE COURT: Sustained.

14 Q. BY MS. POLK: Mr. Caci, did you see areas
15 that were wet when you came out of the sweat lodge?

16 A. Yes.

17 Q. And show the jury where. I'll clear it.

18 A. Here and here. This whole area right
19 around here.

20 Q. And how wet was it? What did you
21 observe?

22 A. Well, if you're spraying a hose, it's
23 normal to get the whole area wet. I mean --

24 Q. And then I want to go back to inside the
25 sweat lodge, a photograph that I was looking for

1 yesterday. Put up on the overhead 287. Do you
2 recognize what that is?

3 **A. Yes, I do.**

4 **Q.** When you were inside Mr. Ray's sweat
5 lodge ceremony, is that what the pit looked like
6 with the rocks in it?

7 **A. I'm not sure. Is this the initial
8 picture or after?**

9 **Q.** This is after. A picture from after the
10 ceremony.

11 **A. Well, yes. I do remember the sticks
12 here. I guess the poles. Pardon me. And I do
13 recall seeing this blue tarp here. In fact, it was
14 there. You could see it.**

15 **Q.** And specifically about the pit, do you
16 remember how deep it was?

17 **A. No. I don't know. I don't know anything
18 about the construction of the pit, how deep it is.**

19 **Q.** Does what is depicted in this picture
20 look like it looked to you when you were inside the
21 sweat lodge?

22 **A. Yes.**

23 **Q.** In terms of your own height, how wide was
24 that pit, if you recall?

25 **A. Maybe about three feet in diameter, two**

1 **and a half feet in diameter. Specifically, I don't
2 know, but I'm guessing it's around there.**

3 **Q.** Okay. Did you happen to meet Sidney
4 Spencer?

5 **A. I met her there. I can't say I knew her
6 personally. I remember meeting her. She was a
7 nice lady. All the folks there were great.**

8 **Q.** And you told the jury yesterday you
9 roomed with James Shore?

10 **A. Uh-huh.**

11 **Q.** Were you ever aware of James Shore when
12 he was inside the sweat lodge?

13 **A. No, I wasn't. Here's what I recall --**

14 MR. LI: Objection, Your Honor, after "No, I
15 wasn't." Move to strike.

16 THE COURT: There is no question pending.

17 Ms. Polk, please proceed with a question.

18 **Q.** BY MS. POLK: Do you recall anything with
19 regard to James Shore inside the sweat lodge?

20 **A. No, I don't.**

21 **Q.** Do you recall anything with regard to
22 Sidney Spencer --

23 **A. No.**

24 **Q.** -- in the sweat lodge?

25 **A. No, I don't.**

1 **Q.** During the time that you were outside
2 before you went in for the last round, were you
3 ever aware of people being dragged out?

4 **A. I saw people coming out. I don't recall
5 seeing people dragged out. I don't.**

6 **Q.** And when did you first become aware of
7 James Shore?

8 **A. I heard through someone else that they
9 were doing CPR on him.**

10 MR. LI: Objection.

11 THE COURT: Sustained.

12 **Q.** BY MS. POLK: I just want to know what
13 you recall from the scene yourself, Mr. Caci.

14 During the time that you roomed with
15 James Shore during this week, did you observe
16 whether or not he was sick in any way?

17 **A. No, he wasn't. He wasn't sick. You
18 know, I remember we had to go back to our tents, to
19 our place where we were staying. We had forgotten
20 something, and so we were running back.**

21 **And I'll never forget this. James Shore
22 said to me, man, I'm so glad I quit smoking because
23 it was killing me.**

24 **Q.** And why does that stick in your memory?

25 **A. Because he was huffing and puffing. We**

1 **ran there. We ran back. I can't remember if we
2 forgot our pouches or can't remember what we forgot
3 exactly.**

4 **Q.** How far from the tent was the -- your
5 lodging that you ran back to?

6 **A. It wasn't that far. I mean, maybe about
7 30, 40 yards away. It wasn't far.**

8 **Q.** Do you know when James Shore had quit
9 smoking?

10 MR. LI: Objection, Your Honor. Hearsay.

11 Calls for speculation.

12 THE COURT: Sustained.

13 THE WITNESS: No, I don't. Sorry.

14 **Q.** BY MS. POLK: You testified yesterday
15 about the head shaving ritual. Do you know whether
16 James Shore shaved his head?

17 **A. Trying to recollect. Because I believe
18 it was partially -- he's partially bald. So --**

19 **Q.** If you don't remember, that's okay.

20 **A. I really don't.**

21 MS. POLK: Your Honor, the state moves for the
22 admission of Exhibit 175, the Verde Valley Medical
23 Center records with respect to Mr. Caci.

24 MR. LI: No objection.

25 THE COURT: 175 is admitted.

1 (Exhibit 175 admitted.)

2 MS. POLK: State moves for the admission of
3 Exhibit 176, the Verde Valley Ambulance Company
4 records with respect to Mr. Caci.

5 MR. LI: No objection.

6 THE COURT: 176 is admitted.

7 (Exhibit 176 admitted.)

8 Q. BY MS. POLK: Sir, I'm going to show you
9 these two exhibits. Have you ever seen either one
10 of these records?

11 A. Yes. I have copies of these at home. I
12 asked for them.

13 Q. I'm going to take them back. We'll look
14 at them from my podium.

15 A. I don't recall seeing this one.

16 Q. And that one is the ambulance company
17 records?

18 A. I believe so. Actually, I don't recall
19 this document.

20 MR. LI: Your Honor, just for the record, so
21 we can identify the exhibit so we know which
22 document --

23 MS. POLK: Exhibit 176 is the Verde Valley
24 Ambulance Company.

25 MR. LI: Thank you.

1 Q. BY MS. POLK: I'm going to put
2 Exhibit 176 up on the overhead. Can you read it on
3 your monitor there, Mr. Caci?

4 A. Burn to the right hand/arm --

5 Q. I don't -- I don't need you to read it
6 out loud. I want to see, first of all, if you can
7 see it on your monitor.

8 A. Yes, I can.

9 Q. Are you able to see the time that the
10 paramedics arrived at Angel Valley? I'll point you
11 where it says approximate time, 1844.

12 A. Okay. Yes. I can see that. 1844.

13 Q. 6:44. Where were you from the time you
14 came out at the end of Mr. Ray's ceremony until you
15 were tended to by the paramedics?

16 A. If I recall, I believe I went back to my
17 tent to get out of my wet clothes, my wet shorts.

18 Q. Did someone direct you to go back to your
19 tent?

20 A. No. I went on my own.

21 Q. Had emergency responders arrived at the
22 scene before you went back to your tent?

23 A. I do remember seeing that helicopter
24 coming in. I remember hearing sirens.

25 Q. Where were you when you saw the

1 helicopter come in?

2 A. Right in front of the tent. Right around
3 the area where the sweat lodge was happening --

4 Q. Okay.

5 A. -- or occurred. Pardon me.

6 Q. Do you know if that was before or after
7 you went to your cabin to change?

8 A. It was before.

9 Q. Did you -- whose decision was it for you
10 to leave the sweat lodge area and go back to your
11 cabin?

12 A. Mine. I just wanted to.

13 Q. Why did you go back down near the sweat
14 lodge?

15 A. I wanted to change and just see what was
16 going on. And then they told me I had to go to the
17 hospital because I was injured.

18 Q. What initiated the contact between you
19 and a paramedic? Did you approach a paramedic?
20 How did they become aware of you?

21 A. I believe the Dream Team told them about
22 my situation, and someone came to attend to me.

23 Q. Do you know if that person was a
24 paramedic?

25 A. Well, I'm assuming. Yeah. Yeah. In

1 fact, they were.

2 Q. Do you recall what the paramedic did for
3 you?

4 A. I don't.

5 Q. Looking toward the bottom of this
6 exhibit, it says, want pain meds. Were you given
7 pain medication at the scene?

8 MR. LI: Your Honor, 106, I believe the record
9 actually says, doesn't want pain meds. If you go
10 to the top where it says --

11 MS. POLK: If counsel will direct me, Your
12 Honor --

13 Q. Do you see where my pen is pointed now,
14 Mr. Caci?

15 A. Uh-huh.

16 Q. There is something I can't read, and then
17 it says, at sweat lodge. Patient, 41-year-old
18 male, walked to -- I don't know what that says --
19 had an LOC -- which would be loss of consciousness.
20 Fell on hot rocks burning his right arm. Patient
21 this time -- there is an abbreviation for
22 something. Pain --

23 MR. LI: I think it's complains of.

24 Q. BY MS. POLK: -- complains of pain. Then
25 I'm not sure what that says.

1 **A. Seven out of 10.**
 2 **Q.** Doesn't want pain meds.
 3 So I stand corrected on that. Do you
 4 recall this at all?
 5 **A. Somewhat. No. I don't.**
 6 **Q.** And then my patient said they had been at
 7 the sweat lodge since last week.
 8 Could you read what that says next?
 9 **A. It started at 1400. That's about right.**
 10 **Q.** And then what does it say?
 11 **A. My point was to -- I'm not sure what that**
 12 **is. Looks like PT. I'm not sure what that is. In**
 13 **amble 912. I'm not sure what that means. Taken to**
 14 **Verde Valley Medical. Possible C02 poisoning.**
 15 **Q.** When your paramedic was treating you --
 16 first of all, do you know how long the paramedic
 17 was treating you?
 18 **A. I don't know.**
 19 **Q.** Do you recall if it was more than one
 20 paramedic?
 21 **A. No, I don't.**
 22 **Q.** When the paramedic was treating you and
 23 taking this information, was Mr. Ray there or do
 24 you know where Mr. Ray was?
 25 **A. No.**

1 **Q.** Was anybody from the Dream Team there?
 2 **A. Sheila, I can't really remember. I know**
 3 **someone was treating me, but I can't remember**
 4 **whether there was a Dream Team. I do remember**
 5 **Melinda helping me.**
 6 **Q.** At what point do you remember Melinda
 7 helping you?
 8 **A. When I came out of the sweat lodge and**
 9 **she saw how burnt I was. I guess she -- I think**
 10 **she had some training. I can't recall whether she**
 11 **was a nurse before or had training in that area,**
 12 **but she seemed to know what to do. She put my arm**
 13 **right away into a bucket of cold water.**
 14 **Q.** And that was back when you first came out
 15 of the sweat lodge?
 16 **A. Correct.**
 17 **Q.** My question is, when the paramedic wrote
 18 possible C02 poisoning, was -- do you know if
 19 Mr. Ray had provided the paramedic with any
 20 information about the length of his sweat lodge
 21 ceremony --
 22 MR. LI: Objection --
 23 **Q.** BY MS. POLK: -- the number of rocks in
 24 his sweat lodge ceremony?
 25 MR. LI: Objection. Argumentative,

1 speculation.
 2 THE COURT: Sustained.
 3 **Q.** BY MS. POLK: Do you know if Mr. Ray had
 4 provided any information to the paramedic about the
 5 scene when the paramedic wrote possible C02
 6 poisoning?
 7 MR. LI: Relevance, Your Honor.
 8 THE COURT: That would call for a yes or no if
 9 you can respond in that fashion.
 10 THE WITNESS: No.
 11 **Q.** BY MS. POLK: How did you get to the
 12 hospital?
 13 **A. I was -- I rode in an ambulance with**
 14 **Sean. Sean was in a stretcher, and I sat. I sat**
 15 **right behind him.**
 16 **Q.** Did you observe anything about Sean
 17 during the period of time you were in the ambulance
 18 with him?
 19 **A. I recall him saying a few things.**
 20 **Q.** What did you observe about Sean's
 21 condition when he was in the ambulance?
 22 **A. I don't think he was all there.**
 23 **Q.** When you got to the hospital, where did
 24 you go?
 25 **A. I guess they took me to observation. It**

1 **was -- I can't remember the medical terminology.**
 2 **ICU. And they were monitoring me all throughout**
 3 **the night. In fact, I hardly slept that night. I**
 4 **was up for, I would say, the majority of the night.**
 5 **Q.** Did you see Mr. Ray at the hospital?
 6 **A. No, I did not.**
 7 **Q.** Do you know if Mr. Ray ever provided any
 8 information to the doctors --
 9 MR. LI: Objection. Calls for speculation,
 10 relevance, subject to our entire conversation this
 11 morning.
 12 THE COURT: Sustained.
 13 **Q.** BY MS. POLK: I'm going to put up on the
 14 overhead Exhibit 175. You recognize this to be
 15 your records from the Verde Valley Medical Center?
 16 **A. Yes.**
 17 **Q.** I'm going to draw your attention to that
 18 first -- actually, says, date of admission,
 19 10/8/2009? Chief complaint: Burns and loss of
 20 consciousness?
 21 **A. Uh-huh.**
 22 **Q.** Then it says, brief history of present
 23 illness: This is a 42-year-old man who is a
 24 Canadian national visiting from out of town. He
 25 was here for some sort of motivational seminar. He

1 was participating in some sort of sweat lodge
 2 activity. It's unclear what happened. We suspect
 3 there were toxic fumes or carbon monoxide.
 4 Do you know, Mr. Caci, what information
 5 had been provided to the doctor who wrote, we
 6 suspect toxic fumes or carbon monoxide?
 7 MR. LI: Objection. Calls for speculation.
 8 THE COURT: He may answer that yes or no if he
 9 can.
 10 THE WITNESS: I'm sorry, Sheila. What's the
 11 question again?
 12 Q. BY MS. POLK: Do you know what
 13 information had been provided to the doctor who
 14 wrote, we suspect there were toxic fumes or carbon
 15 monoxide?
 16 A. **I don't know.**
 17 Q. Did you ever see anybody from Mr. Ray's
 18 staff when you were at the hospital?
 19 MR. LI: Objection. Relevance.
 20 THE COURT: Overruled.
 21 You may answer that.
 22 THE WITNESS: No.
 23 Can I clarify something?
 24 Q. BY MS. POLK: Yes.
 25 A. **In the sweat lodge?**

1 Q. Yes.
 2 A. **And I'm just trying to link where they**
 3 **may have come up with this statement here.**
 4 Q. I don't want you to speculate on
 5 anything.
 6 A. **Okay.**
 7 THE COURT: There is no question.
 8 THE WITNESS: Okay.
 9 Q. BY MS. POLK: Looking at the next
 10 paragraph, says, review of symptoms. His review of
 11 symptoms is limited because of his loss of
 12 consciousness and not much recall. The patient was
 13 dizzy, but he does not recall whether he had any
 14 headache.
 15 What do you recall about a headache, if
 16 anything?
 17 A. **I don't recall having a headache.**
 18 Q. At the time you burned your arm?
 19 A. **Well, all I can recall is the pain in my**
 20 **arm.**
 21 Q. And then the next sentence, he most
 22 notably complains of pain to his right upper
 23 extremity. He currently in the emergency room
 24 complains of that pain and of being cold.
 25 Do you recall being cold?

1 A. **Yes.**
 2 Q. At what point do you recall feeling cold?
 3 At what point -- from the time you came out of the
 4 sweat lodge after the last round, when do you first
 5 recall feeling cold?
 6 A. **I can't really recall. I do remember I**
 7 **was cold inside the hospital. I'm not sure. Maybe**
 8 **because it's the air conditioning in there. But I**
 9 **do recall being cold. I was. I do remember**
 10 **shaking a bit.**
 11 Q. And when was that?
 12 A. **In the hospital. I don't know whether it**
 13 **was shock or it was the pain or -- I do recall**
 14 **shaking.**
 15 Q. I'm going to turn to the next page, which
 16 is Bates stamped 1684. I just want to ask you --
 17 draw your attention to where it says, extremities.
 18 Right here.
 19 A. **Uh-huh.**
 20 Q. And the last sentence says, He does
 21 appear to have been on his knees for some period as
 22 these are both ruddy.
 23 What did you wear inside the sweat lodge?
 24 A. **I wore my swim shorts.**
 25 Q. Do you recall being on your knees for

1 some period of time?
 2 A. **Yeah.**
 3 Q. When was that?
 4 A. **Well, you had to crawl in. So you're on**
 5 **your knees there. And when I was helping out**
 6 **Linda, you're on your knees as well, and you're**
 7 **trying to lift.**
 8 Q. I'm going to put up on the overhead
 9 Exhibit --
 10 Your Honor, the state moves to admit
 11 Exhibit 275.
 12 MR. LI: No objection, Your Honor.
 13 THE COURT: 275 is admitted.
 14 (Exhibit 275 admitted.)
 15 Q. BY MS. POLK: Mr. Caci, when you went
 16 back down to the scene around the sweat lodge, do
 17 you recall if it was light or dark?
 18 A. **It was dark. The sun was going down.**
 19 Q. Does this scene look familiar to you?
 20 A. **Yes, it does.**
 21 Q. What about it looks familiar?
 22 A. **Well, I do remember the golf cart there,**
 23 **the extended golf cart. I do remember the sheriffs**
 24 **there, the police officers. I remember the**
 25 **paramedics. I remember this tent. I remember just**

1 people walking around.

2 Q. I want to take a few moments to talk
3 about your experience in 2003 in Mr. Ray's sweat
4 lodge ceremony then. Do you know for sure where
5 you were in 2003 when you attended a Spiritual
6 Warrior seminar?

7 A. I would have to check my journal at home.
8 I can't remember. I know I wrote it down.

9 Q. Is it possible you were at Angel Valley
10 for the ceremony in 2003?

11 A. Yes. It's coming back.

12 Q. What just clicked?

13 A. When you said "Angel Valley." I
14 remember -- okay. It's coming back. There was a
15 few seminars. There was Legendary Leadership.
16 There was Spiritual Warrior. And at that time you
17 had to take his curriculum in a specific order
18 because one curriculum led to another led to
19 another. And then I believe in '05 or '06 he
20 changed the whole curriculum around.

21 I do remember being -- because we had to
22 fly into Sacramento. We drove somewhere. And I
23 remember these big redwood trees. It was
24 absolutely gorgeous there. Okay. It's coming
25 back.

1 When we were in Sedona, we stayed at the
2 Enchantment.

3 Q. In 2003?

4 A. 2003. And then I remember we did this
5 trek. We did the Vision Quest, and then after we
6 did the sweat lodge.

7 Q. You think you did the Vision Quest before
8 the sweat lodge in 2003 or after?

9 A. I think it was in the same procedure. We
10 did the Vision Quest first. No. No. No. You
11 know what. I recall now. We did the sweat lodge
12 first and then the Vision Quest after.

13 Q. In 2003?

14 A. In 2003.

15 Q. And was that different than what you did
16 in 2009?

17 A. Yes. In 2009 we did the Vision Quest
18 first and then the sweat lodge after.

19 Q. In 2003 when you did Mr. Ray's sweat
20 lodge ceremony, had you been fasting ahead of time?

21 A. Yes. I recall we were. Yeah.

22 Q. How long had you fasted before doing the
23 ceremony in 2003?

24 A. It was 24 hours.

25 Q. Was the fasting part of the Vision Quest?

1 A. Yes. Yes, it was.

2 Q. And let's clarify. Was the Vision Quest
3 in 2003 before or after the sweat lodge ceremony?

4 A. It was eight years ago. I can't --

5 Q. Is it possible the Vision Quest was after
6 the sweat lodge ceremony in 2003?

7 MR. LI: Objection. Leading.

8 THE COURT: Sustained.

9 THE WITNESS: You know what. Here's what I
10 remember: I remember -- can I answer?

11 THE COURT: Ms. Polk, please proceed with a
12 question.

13 Q. BY MS. POLK: Do you remember, Mr. Caci,
14 the sequence of events between the sweat lodge and
15 the Vision Quest at Mr. Ray's seminar in 2003?

16 A. I remember the sweat lodge happening
17 first. And then I recall we brought a change of
18 clothes because we would have been sweating and
19 wet, and then we brought a towel. We dried
20 ourselves off. We changed. And then we went to
21 the Vision Quest.

22 Q. In 2003?

23 A. Yes.

24 Q. And in 2003 your testimony is you did not
25 sleep at Angel Valley?

1 A. No.

2 Q. Where did you stay?

3 A. It was called the "Enchantment." It
4 was -- if I recall, it was -- it was the
5 Enchantment. It was a beautiful resort. I
6 remember seeing the caves across the way. They
7 were, I guess, from the Hopi Indians.

8 Q. Was it in Sedona?

9 A. Yes.

10 Q. And let's talk about, again, comparing
11 2003 Spiritual Warrior seminar and 2009, the
12 Spiritual Warrior seminar. Do you recall how many
13 people in 2003 went inside Mr. Ray's sweat lodge
14 ceremony?

15 MR. LI: This was asked and answered
16 yesterday, Your Honor.

17 THE COURT: Overruled.

18 You may answer that, sir.

19 THE WITNESS: I believe there was about 25
20 participants. I think that's what I said
21 yesterday. I can't quite remember. I remember
22 some of the people there.

23 Q. BY MS. POLK: Do you remember Liz Neuman?

24 A. Yes, I do.

25 Q. You remember her being there in 2003?

1 **A. Yes.**

2 **Q.** I'm going to put up on the overhead again
3 Exhibit 144, which is the sweat lodge structure
4 from 2009. What did the sweat lodge structure in
5 2003 used by Mr. Ray look like?

6 **A. I believe the -- not that -- I believe**
7 **the sweat lodge looked bigger.**

8 **Q.** Which one?

9 **A. This one in the picture.**

10 **Q.** Do you recall how many rounds there were
11 in 2003?

12 **A. I don't. I'm assuming it was similar.**

13 **Q.** Okay. Would you just describe for the
14 jury, then, or tell us, was your experience in 2009
15 different from 2003?

16 **A. 2003 was hot, and 2009 was a lot hotter.**
17 **That's what I recall. And here's something else I**
18 **do recall from both sweat lodges, is that in**
19 **the 2009 sweat lodge, if you go back to that**
20 **picture, it looked like there was a blue tarp on**
21 **there. And I don't recall ever seeing a tarp in**
22 **the 2003 sweat lodge. I recall it was thick. I**
23 **remember touching it. It was blankets.**

24 **Q.** In 2003?

25 **A. 2003. So it looked to me it was more**

1 **breathable.**

2 **Q.** Did you get sick in 2003?

3 **A. No.**

4 **Q.** Did you observe anybody else get sick in
5 2003?

6 **A. I observed people leaving.**

7 **Q.** Did you observe any problems in 2003?

8 **A. No.**

9 **Q.** Did you ever observe anything in 2003
10 that caused you to believe that Mr. Ray should stop
11 and check on people?

12 **A. No. I think 2003 everything went**
13 **smoothly.**

14 **Q.** Did you trust Mr. Ray with respect to
15 your safety inside his sweat lodge ceremony?

16 **A. Absolutely.**

17 **Q.** And how come?

18 **A. Number 1, he's a teacher. Number 2, he's**
19 **the facilitator, and he's done these before. So**
20 **based on those three assumptions or facts, you just**
21 **assume -- you put your trust in he knows what he's**
22 **doing. Just go ahead and proceed.**

23 **Q.** Do you recall how long, Mr. Caci, it took
24 for the ambulance to transport you from the sweat
25 lodge at the scene to the hospital?

1 **A. I can't recall. Maybe it was about a**
2 **20-, 25-minute ride.**

3 **Q.** And once you got to the hospital, did the
4 doctors treat your arm?

5 **A. Yes, they did.**

6 **Q.** How did they treat it?

7 **A. Well, specifically, I know that they put**
8 **gauze, this kind of mesh on it. Had -- I guess it**
9 **had some antibiotics and some ointments on it.**
10 **They had to keep it moist all the time. It wasn't**
11 **supposed to stay dry. They wanted to ensure that**
12 **it was always moist. And then they wrapped it.**

13 **Q.** How long did it take your arm to recover?

14 **A. Well, I was always getting it changed**
15 **back home. I believe it was about four weeks.**

16 **Q.** Where did you go to have the dressing
17 changed when you got home?

18 **A. Well, a good friend of ours is a nurse;**
19 **so I had her help. And then she showed my wife**
20 **what to do. And my wife would change it every**
21 **morning for me before I would go into the office.**

22 **Q.** Was that per doctor instructions to
23 change the dressing every day?

24 **A. No.**

25 **Q.** Why were you changing the dressing every

1 day?

2 **A. Well, I was changing the dressing every**
3 **day just to keep it moist and always --**

4 **Q.** I see.

5 **A. Because we had to -- it was important to**
6 **do that.**

7 **Q.** Do you recall -- and I'm going to talk
8 about 2009 some more. Do you recall the air
9 temperature when you came out of the sweat lodge at
10 the end of Mr. Ray's ceremony?

11 **A. Well, it was warm outside. It was a**
12 **beautiful day. It was hot. I mean, it was above**
13 **average temperatures, I'm sure, compared to where I**
14 **live.**

15 **Q.** Compared to Canada?

16 And inside the sweat lodge did you notice
17 any change in temperature from your first position,
18 which was at the back of the tent, to that second
19 position in the final round when you were closer to
20 the door?

21 **A. It was hot. It was a lot hotter.**

22 **Q.** Where was it a lot hotter?

23 **A. Closer to the pit. The heat was intense.**

24 **Q.** Between your two positions, your first
25 position in the back and then your second position

1 at the door, which was hotter?

2 **A. My second position at the door. Oh. I**
3 **see. When I came back the second time?**

4 **Q.** Yes. I want you to compare the -- first
5 of all, was there a difference in air temperature
6 between the two positions that you had in the sweat
7 lodge, the first being at the back area and the
8 second being the area over here? Was one hotter
9 than the other or did you notice?

10 **A. I don't really recall.**

11 **Q.** Did you notice whether or not it was
12 humid inside the sweat lodge?

13 **A. Well, humid in the sense of it is a sweat**
14 **lodge. I mean, you start sweating. I mean, you**
15 **can sweat when there is dry heat too. I don't**
16 **recall. I don't recall whether it was humid or**
17 **dry.**

18 **Q.** Do you know when the Verde Valley
19 Ambulance Company that took care of you -- do you
20 know when they arrived at the scene?

21 **A. I remember the helicopter coming in**
22 **and --**

23 **Can you explain the question again -- the**
24 **time? The exact time?**

25 **Q.** Well, we talked about a time earlier,

1 approximate time of 1844, which was 6:44.

2 But let me put back up on the overhead
3 Exhibit 176. Just see if we can -- you see up here
4 where it says, dispatch 1751, en route 1753, on
5 scene 1811, which would be 6:11?

6 Do you see that?

7 **A. Yes, I do.**

8 **Q.** And then en route to hospital 18 -- if
9 I'm reading it right -- 18 --

10 **A. 1837.**

11 **Q.** -- 1837. Arrival at hospital, 1902.
12 Do you see that?

13 **A. Yes. I do recall the sun setting. The**
14 **sun was going down.**

15 **Q.** Do you recall seeing whether anyone at
16 the scene got I.V.s?

17 **A. I do remember seeing people on**
18 **stretchers. But I don't remember. I don't**
19 **remember. I don't remember any I.V.s.**

20 **Q.** Do you remember if Sean Ronan, who shared
21 the ambulance with you, if he was on an I.V.?

22 **A. Yes. He was on an I.V. inside the**
23 **ambulance.**

24 **Q.** Did you get an I.V. at the hospital?

25 **A. Yes, I did.**

1 **Q.** I'm going to put back up on the overhead
2 Exhibit 175. These are your medical records from
3 the Verde Valley Medical Center, bates 1687.

4 It says, I.V., two attempts.
5 Do you see where I'm looking?

6 **A. Yes. It was two attempts. They were**
7 **trying to find, I guess, a vein, and they had a**
8 **tough time finding it.**

9 **That was probably -- I do recall her**
10 **saying you don't have very much oxygen in you.**

11 **That's why they had a tough time. So**
12 **they tried to make two attempts.**

13 **Q.** And then going back to 2003, do you
14 recall on that Vision Quest in 2003, were you
15 allowed water?

16 **A. Yes. I remember we had a jug of water.**

17 **Q.** On Vision Quest?

18 **A. On the Vision Quest.**

19 **Q.** I'm going to go back to the exhibit still
20 on the overhead about the I.V. attempts at the
21 hospital. Did the paramedics attempt to do an I.V.
22 on you?

23 **A. No. I don't recall. I was just in the**
24 **back of the ambulance.**

25 **Q.** Thank you, Mr. Caci.

1 Thank you, Your Honor.

2 THE COURT: Thank you, Ms. Polk.

3 Ladies and gentlemen, we will take the
4 morning recess at this time. Please remember the
5 admonition and be back in the jury room at 10 till.
6 So about 20 minutes. We'll start as soon as we can
7 after that.

8 Mr. Caci, you are excused at this time as
9 well for the recess. Thank you.

10 (Recess.)

11 THE COURT: The record will show the presence
12 of the defendant, Mr. Ray, the attorneys, the jury.

13 Mr. Caci is on the witness stand.

14 Mr. Li.

15 MR. LI: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. LI:

18 **Q.** Good morning, Mr. Caci.

19 **A. Good morning.**

20 **Q.** It's Caci; right?

21 **A. Caci.**

22 **Q.** Caci. My name is Luis Li. I represent
23 Mr. Ray here. My brother-in-law calls me Lou; so I
24 think we share something.

25 **Happy Saint Patrick's Day. We can all**

- 1 share our Irish heritage.
- 2 **A. I forgot to wear green today.**
- 3 **Q. You're from Winnipeg?**
- 4 **A. Yes, I am.**
- 5 **Q. In the break -- we've never met before;**
- 6 **right?**
- 7 **A. No, we haven't.**
- 8 **Q. In the break, we chatted a little bit**
- 9 **about how you're from Winnipeg, and I had the**
- 10 **opportunity to go up there one winter, and it gets**
- 11 **cold.**
- 12 **A. Yes.**
- 13 **Q. We talked about football a little bit.**
- 14 **A. Yes.**
- 15 **Q. During your direct examination, you had**
- 16 **some words with Ms. Polk about playing football.**
- 17 **A. Uh-huh.**
- 18 **Q. Did you play for high school or --**
- 19 **A. High school and junior.**
- 20 **Q. Like a junior college?**
- 21 **A. No. It was junior. It was not a**
- 22 **University level. It was junior.**
- 23 **Q. After high school but not at the**
- 24 **University level?**
- 25 **A. Right.**

- 1 **Q. What position did you play?**
- 2 **A. Quarterback.**
- 3 **Q. You were the quarterback?**
- 4 **A. Yes.**
- 5 **Q. In high school I had the chance to play**
- 6 **cornerback. And it was -- it's pretty tough**
- 7 **playing football.**
- 8 **A. It is.**
- 9 **Q. Do you remember doing wind sprints?**
- 10 **A. Oh, yeah.**
- 11 **Q. And. You know -- run to the hundred yard**
- 12 **line?**
- 13 **A. Yeah.**
- 14 **Q. And run all the way back to the other end**
- 15 **zone. Run to the 90 yard line. Run all the way**
- 16 **back. We called them "wind sprints." What did you**
- 17 **call them?**
- 18 **A. Same thing.**
- 19 **Q. And really the goal was to run as hard as**
- 20 **you could?**
- 21 **A. Absolutely.**
- 22 **Q. And to -- it's a little bit of a**
- 23 **competition between your teammates. And you were**
- 24 **the quarterback so --**
- 25 **A. You didn't want to be last. You didn't**

- 1 **want the linemen to beat you.**
- 2 **Q. That's for sure. Did you ever see any of**
- 3 **your teammates or even yourself push yourself a**
- 4 **little too far, maybe throw up?**
- 5 **A. Yeah. Absolutely. I remember spring**
- 6 **camp. It would be hot out, be 30 degrees, and**
- 7 **you're in football equipment, and we're doing wind**
- 8 **sprints. I don't remember puking but pretty close.**
- 9 **Q. Lying on the ground and gasping?**
- 10 **A. Yes.**
- 11 **Q. I mean, look, we've --**
- 12 **A. It's part of sports.**
- 13 **Q. It's pretty tough?**
- 14 **A. Yeah.**
- 15 **Q. You said you played some soccer too?**
- 16 **A. Uh-huh.**
- 17 **Q. What position did you play there?**
- 18 **A. I rotated from left forward to left half,**
- 19 **sometimes on defense.**
- 20 **Q. So you're running all over the field?**
- 21 **A. Especially the half.**
- 22 **Q. Like in the midfield, you're running back**
- 23 **and forth, back and forth?**
- 24 **A. You have to. That's the position's job.**
- 25 **Q. Part of the training for that is to just**

- 1 **run all out all the time?**
- 2 **A. You had to keep your lungs in shape, your**
- 3 **endurance in shape. That's for sure.**
- 4 **Q. You look like you're in pretty good**
- 5 **shape, if I may say so.**
- 6 **A. Thank you. Gained a few pounds over the**
- 7 **last year.**
- 8 **Q. These things happen. Now, you work out?**
- 9 **A. Yeah, I do.**
- 10 **Q. What kind of stuff do you do?**
- 11 **A. I just do the basics. I do treadmill for**
- 12 **about half an hour, 40 minutes. Then I'll do a**
- 13 **little bit of weights.**
- 14 **Q. You lift some weights?**
- 15 **A. Yeah. But I don't -- I don't go heavy.**
- 16 **I'm just about maintaining, not about trying to**
- 17 **build bulk.**
- 18 **Q. You and me both, brother.**
- 19 **You met Mr. Ray in '90; right?**
- 20 **A. Yes, I did.**
- 21 **Q. And you were probably what? 20, late 20,**
- 22 **mid 20, give or take?**
- 23 **A. I was probably 23 -- 22, 23.**
- 24 **Q. Mr. Ray is just a few years older than**
- 25 **you?**

1 **A. I believe there is about 10 years**
 2 **difference between us.**
 3 **Q.** You were friends?
 4 **A. Yeah.**
 5 **Q.** And you used to work out together?
 6 **A. Well, we went -- I remember a couple**
 7 **times we went to the gym together. He taught me a**
 8 **few things on weight training. He was good at it.**
 9 **Q.** And you -- maybe the night before you
 10 guys maybe went out? Go to bars?
 11 **A. Sure.**
 12 **Q.** Did guy things?
 13 **A. Absolutely.**
 14 **Q.** And you've told folks that Mr. Ray is a
 15 really good man?
 16 **A. Of course he is.**
 17 **Q.** Now, I just want to talk a second about
 18 the sort of James Ray International programs and
 19 the seminars, not just Mr. Ray as a friend.
 20 Although -- you know -- we'll talk a little bit
 21 about that. I also want to talk a little bit about
 22 you know -- the seminars.
 23 Now, I understand you've attended a
 24 number of them.
 25 **A. Yes, I have.**

1 **Q.** The first seminar you went to was
 2 actually in 1998. And it was a Harmonic Wealth.
 3 Does that sound right?
 4 **A. Prior to that, I believe it was '95. It**
 5 **was called "The Science Of Success."**
 6 **Q.** And the two of you, as I recall from the
 7 direct examination, met at a Tony Robbins seminar?
 8 **A. Yes.**
 9 **Q.** And the purpose behind that was to get
 10 motivated?
 11 **A. Well, I think most people who attend**
 12 **those types of seminars are motivated, period.**
 13 **Okay?**
 14 **Q.** Get more motivated.
 15 **A. Right. I just think people that attend**
 16 **these type of seminars just want tools they can use**
 17 **on a day-to-day basis so they can excel and grow**
 18 **even further.**
 19 **Q.** This would be in areas of your business?
 20 **A. Sure.**
 21 **Q.** Areas of your personal life?
 22 **A. Personal, business, relational,**
 23 **financial, physical. All the five areas.**
 24 **Q.** And I believe you told us all that you
 25 had gone to Mr. Ray's seminars to sort of expand

1 your horizons?
 2 **A. Yes, I have.**
 3 **Q.** And let's just talk a little bit about
 4 that. I won't spend a ton of time on it.
 5 **A. Sure.**
 6 **Q.** Did he demand at these seminars -- does
 7 Mr. Ray demand at these seminars that you believe
 8 every single word he says?
 9 MS. POLK: Your Honor, may I approach?
 10 THE COURT: Yes.
 11 (Sidebar conference.)
 12 MS. POLK: Your Honor, I'd like to request
 13 that Mr. Li not keep going back and bringing
 14 attention to the defendant. Mr. Li knows that
 15 there is a long history of friendship. And
 16 yesterday when Mr. Caci came to the courthouse -- I
 17 don't know that Mr. Li knows this part. But when
 18 he came to the courthouse, the defendant stared him
 19 down. And this witness feels intimidated. And I
 20 believe that twice now in a very short period of
 21 time, Mr. Li has deliberately gone over and stood
 22 by his client, drawing this witness's attention to
 23 the client.
 24 I request that Mr. Li remain at the
 25 podium, not go there asking questions from his

1 client's side. Because it is an effort to make
 2 this witness look at Mr. Ray who did, in fact,
 3 stare him down yesterday. And this witness was
 4 upset yesterday with that.
 5 MR. LI: I don't think -- I'm certainly not
 6 aware of any fact suggesting that Mr. Ray, of all
 7 people, would stare anybody down. I don't think
 8 there is anything wrong with me pointing at the
 9 client and for Mr. Caci to have to look at the
 10 client. That's the whole purpose behind the
 11 confrontation clause.
 12 MS. POLK: Your Honor, Mr. Li is doing more
 13 than pointing at his client. He's going and
 14 standing over by his chair twice now asking
 15 questions from this position. It's not
 16 unreasonable to ask that Mr. Li to ask his
 17 questions from the podium.
 18 MR. LI: I just want to correct the record. I
 19 don't think there is any evidence. I understand
 20 what Ms. Polk is saying. I'm just not aware of any
 21 facts supporting the idea that Mr. Ray tried to
 22 intimidate this witness. It's not what's happening
 23 in this kind of a case. But I just want to put
 24 that out there.
 25 MS. POLK: I'll make an avowal that this

1 witness was very upset yesterday when he arrived,
2 felt he had been stared down by the defendant and
3 he was upset. And it makes it difficult for him to
4 testify. And, again, there is no reason to go over
5 and stand by the defendant's chair to ask
6 questions.

7 MR. LI: For the record, this is not a
8 gangster case where people are staring people down.
9 If Mr. Caci feels any sort of problem because
10 Mr. Ray is looking at him, I think that's exactly
11 what the confrontation clause contemplates, that
12 people have to be able to see the people that they
13 are testifying against. And I simply don't see any
14 cause for Ms. Polk's objection.

15 THE COURT: The appropriate place to question
16 is from counsel table or the podium normally. I
17 don't like to restrict people. Normally in a
18 pretrial, I go through those in a little more
19 detail. With the unusual jury selection process,
20 we didn't do all these pretrial things.

21 I tell people you don't have to stay
22 right at the podium. You can question from the
23 counsel table or the podium. I obviously can't
24 sort out what's going on in this context. I have
25 to take it as officers of the court, Ms. Polk is

1 telling me what she believes in good faith has
2 occurred.

3 You're telling me you know nothing of
4 this and you would be no part of it. I'll take
5 that as an your avowal as a good-faith person that
6 you're here trying a case, not trying to use
7 gimmicks. I trust that, Mr. Li. But there is an
8 issue here. And question from counsel table or the
9 podium, that's the rule. If we have to do that,
10 that's what we'll do.

11 MR. LI: All right.

12 MS. POLK: Your Honor, while we're here, if
13 Mr. Li is going to elicit character evidence, it
14 opens the door to character evidence. And asking
15 this witness specifically, you have said he's a
16 good person, Mr. Li has opened the door. And he
17 has indicated he's going to go back to that
18 friendship.

19 MR. LI: I'm not going to go back there.

20 MS. POLK: Well, you stated on the record
21 you're going to go back to the friendship.

22 If the friendship is relevant to the
23 issue in the case, it comes in. If it's about
24 character evidence, he's opened the door and he's
25 going to open it --

1 MR. LI: I'll proffer I'm not making any
2 character evidence. It's not an effort to make any
3 character evidence.

4 THE COURT: It relates somewhat to what we
5 were talking to earlier. Cross-examination goes
6 someplace. Then the state is in the position what
7 do we do? Right now I'm not going to say it's
8 open.

9 MR. LI: And I won't go there.

10 THE COURT: I appreciate that. Because that's
11 where we'd be headed.

12 MR. LI: I appreciate it.

13 THE COURT: Thank you.

14 (End of sidebar conference.)

15 Q. BY MR. LI: I guess the last question I
16 just had asked you is that in your seminars that
17 you've attended, Mr. Ray, he does not demand that
18 you believe every word he says, does he?

19 A. Well, he does make a statement: If I was
20 to show you everything that you needed to do to be
21 successful, would you do it?

22 So you'd believe that; right?

23 Q. Yeah. I guess --

24 A. If someone gave you a recipe to a
25 certain -- any sort of recipe and you told it to be

1 successful, you would do it. So yes. You would
2 have to believe it.

3 Q. I guess the question, though, is, he
4 doesn't stand up there and say you better believe
5 every word I say or else, does he? He doesn't say
6 anything like that?

7 A. No.

8 Q. In fact, he says often take what works
9 for you and leave the rest?

10 A. Sure.

11 Q. So that's the point I'm making. I
12 understand that he's offering advice --

13 A. Right.

14 Q. -- and saying, hey. Look. If you want
15 to be successful in these various areas, I suggest
16 to you you should do this?

17 A. Uh-huh.

18 Q. In that respect, he's asking you to
19 consider an idea; correct?

20 A. Correct.

21 Q. But he's not saying to you, you better do
22 everything I tell you or else, is he? Or you will
23 be in trouble? I'm going to get you?

24 It's a silly question. The point I'm
25 making is that he tells you to listen to it.

1 **A. Absolutely.**
 2 **Q.** Take what works --
 3 **A. Take what works for you.**
 4 **Q.** -- and leave the rest?
 5 **A. Sure.**
 6 **Q.** I'm going to try not to argue with you.
 7 So I'm going to try to ask the best questions I
 8 can. If we can just try to back and forth, that
 9 would be great.
 10 **A. Sure.**
 11 **Q.** Now, during the 2009 Spiritual Warrior
 12 seminar, Mr. Ray gave a number of lectures?
 13 **A. Yes, he did.**
 14 **Q.** You remember one about sort of the five
 15 qualities of power?
 16 **A. Yes.**
 17 **Q.** We had an opportunity yesterday to listen
 18 to this long tape of it. And I'm just going to ask
 19 you, you didn't have that opportunity; right?
 20 **A. No, I did not.**
 21 **Q.** I'm going to ask you a few questions and
 22 see what you remember about these ideas.
 23 **A. Sure.**
 24 **Q.** One of them, the first thing, was to let
 25 go of the things in the past that don't serve you?

1 **A. Absolutely.**
 2 **Q.** Okay. By that it means take the things
 3 that are holding you back, the problems that you
 4 had, and if they're not helping you, leave them
 5 behind and move forward. Is that about right?
 6 **A. Yes.**
 7 **Q.** And is that something that you think is a
 8 good idea?
 9 **A. Well, I think it's -- it's a good idea to**
 10 **learn from your past and move forward and don't**
 11 **focus on those limiting beliefs.**
 12 **Q.** Don't dwell on the past?
 13 **A. Yeah. You don't give it energy. You**
 14 **don't dwell on it.**
 15 **Q.** And a second was, basically, don't be a
 16 materialist. Yes?
 17 **A. Yes. Yes.**
 18 **Q.** By that he means don't gear your entire
 19 life to getting a BMW or something like that;
 20 right?
 21 **A. Yes.**
 22 **Q.** You can get one --
 23 **A. Absolutely.**
 24 **Q.** -- but --
 25 **A. And everybody deserves one.**

1 **Q.** Everybody deserves one, but they got to
 2 work for it?
 3 **A. You got to earn your stripes.**
 4 **Q.** But don't spend your entire life --
 5 **A. Right.**
 6 **THE REPORTER:** One at a time.
 7 **Q.** BY MR. LI: My fault too. We have to
 8 have -- I have to ask a question. You have to give
 9 an answer.
 10 You shouldn't focus your entire life on
 11 wanting the next prize; right?
 12 **A. Why not?**
 13 **Q.** Okay. I guess the point is --
 14 **A. It --**
 15 **Q.** Go ahead, please.
 16 **A. If you achieve a certain level, why not**
 17 **strive to get to the next level? I mean, that's**
 18 **why we're here, in my view. That's my opinion.**
 19 **Q.** And that's very helpful. The only point
 20 I was going to make is just the material things.
 21 That, yeah, you want to keep moving forward;
 22 correct?
 23 **A. Correct.**
 24 **Q.** But it's not all about the next car?
 25 **A. No. In my view, it's about having**

1 **quality relationships. That's my personal values**
 2 **and beliefs. Having good quality relationships,**
 3 **making others feel good, treating people equally.**
 4 **Q.** And that's consistent with this idea that
 5 it's not about material things, but it's about
 6 building your community?
 7 **A. Absolutely.**
 8 **Q.** The third quality of power is to live
 9 each day like it might be your last; is that right?
 10 **A. Yes. It's -- one of the things that I**
 11 **learned at Spiritual Warrior is living a life of**
 12 **impeccability, everything that you do. Whether**
 13 **it's making that phone call, helping your child out**
 14 **with their homework, you do it with -- you're**
 15 **there. You're present. You're focused.**
 16 **Q.** Because life is precious?
 17 **A. Absolutely.**
 18 **Q.** And you've got to be courageous?
 19 **A. Yes, you do.**
 20 **Q.** And you've got to squeeze every drop out
 21 of life?
 22 **A. Sure. Absolutely.**
 23 **Q.** Now, this sounds -- obviously we're
 24 having a conversation about this --
 25 **A. Yes.**

- 1 Q. -- and it sounds meaningful to you.
 2 Doesn't it?
 3 A. Yes, it does.
 4 Q. Is it meaningful to you?
 5 A. Yes, it is. Does it happen every day?
 6 No.
 7 Q. I'm going to move to a couple of -- two
 8 of the other pillars. And I will get to the
 9 does-it-happen-every-day part.
 10 A. Sure.
 11 Q. The fourth pillar was to mix it up, vary
 12 your life. Don't get in a rut. Do you remember
 13 that?
 14 A. Yeah. It's about -- it's about not being
 15 predictable.
 16 Q. Do you remember an analogy about Carlos
 17 Santana, who has been playing guitar probably about
 18 40 years or something like that or more?
 19 A. Uh-huh.
 20 Q. And you remember how he started with
 21 Black Magic Woman? You remember those analogies?
 22 A. Yes.
 23 Q. And now -- you know -- I don't know how
 24 many years later, 34 years later, he's still
 25 playing music; right?

- 1 A. Absolutely.
 2 Q. You remember this analogy about keep
 3 mixing your life up?
 4 A. I'm sorry. Mr. Li, I can't quite
 5 remember whether -- I do recall that story. But I
 6 can't quite remember the analogy.
 7 Q. Okay.
 8 A. It's probably in my journal. I'm sure I
 9 wrote something down about it.
 10 Q. It fits with the idea of keeping things
 11 unpredictable?
 12 A. Yes.
 13 Q. The fifth was -- and this is where
 14 impeccability comes in and living a life of honor;
 15 right?
 16 A. Yes.
 17 Q. What does that mean to you?
 18 A. What it means to me is taking
 19 responsibility for everything that you do. That's
 20 what was taught to us.
 21 Q. And you believe that, don't you?
 22 A. Yes.
 23 Q. That a man has to live their life as if
 24 they're responsible for every single thing that
 25 they do?

- 1 A. Well, there is a cause and effect to
 2 everything. So if you do something, you get a
 3 result. That result could either be good or bad.
 4 Whether it's bad or good, you still take
 5 responsibility for that. And that's the whole
 6 premise about living a life of honor and
 7 impeccability and being up-front about things.
 8 Q. And it's about being up-front about
 9 things?
 10 A. Correct.
 11 Q. Giving a promise to somebody. If you
 12 promise, you mean it?
 13 A. Of course. Your word is your law.
 14 Q. If I tell my daughter I'm going to call
 15 her today, I better call her?
 16 A. Right.
 17 Q. And you -- you have two children?
 18 A. Yes, I do.
 19 Q. And you try to use these --
 20 A. I try. Do I fall off the wagon.
 21 Absolutely. But the majority of the time I like to
 22 say I follow that principle.
 23 Q. And that's what you mean by living a life
 24 of impeccability, isn't it?
 25 A. It's saying what you do and following

- 1 through with what you do.
 2 Q. For the people you love?
 3 A. Yes.
 4 Q. And your clients?
 5 A. And my clients and my business, my family
 6 and my friends.
 7 Q. Following through?
 8 A. Uh-huh.
 9 Q. Now, Mr. Ray -- he didn't -- it's not a
 10 religion that he was espousing to you, is it?
 11 A. No. If I can just expand on that.
 12 Q. Please.
 13 A. One of the things he's very good at is
 14 taking the teaches from various religions and
 15 outlining to us, here's what they say here. Here's
 16 what they're saying there. It's all the same
 17 thing.
 18 Q. Honor your wife, things like that?
 19 A. Yeah. Absolutely. Yes.
 20 Q. Be good to your neighbor?
 21 A. Yes.
 22 Q. Do unto others as you would have them do
 23 unto you?
 24 A. Yes.
 25 Q. I'm not going to ask you about your

1 faith, but many of those principles that Mr. Ray is
2 describing are similar to those in many faiths;
3 correct?

4 **A. Correct.**

5 **Q.** And these things, these ideas and
6 concepts -- have they helped you in your life?

7 **A. Absolutely.**

8 **Q.** Have they helped you be more successful
9 at work?

10 **A. Yes, they have.**

11 **Q.** Have you increased your annual income?

12 **A. Yes, I have.**

13 **Q.** At one point you had a -- is your annual
14 income now, basically, what your month -- strike
15 that.

16 Is your --

17 **A. Your annual income now, basically, a
18 monthly income.**

19 **Q.** -- your monthly income now, basically,
20 what your annual income was before? In other
21 words, you're making a whole lot more money?

22 **A. Yes.**

23 MS. POLK: Your Honor, can we have a time
24 period?

25 THE COURT: Sustained as to foundation.

1 **Q.** BY MR. LI: Since you've been working
2 with Mr. Ray.

3 **A. Well, it's -- overnight success happens
4 in 15, 20 years. So it doesn't happen -- it's not
5 as if I attended a seminar and the next --**

6 **Q.** Yeah.

7 **A. So it's continuing to do the work. And
8 you just continue to apply yourself, and eventually
9 things happen.**

10 **Q.** And Mr. Ray tells you you got to work;
11 right?

12 **A. Well, yeah. You have to take action.
13 You have to move your feet. You have to -- and
14 it's not just Mr. Ray saying this. I mean, you
15 pick up any book, whether it's Napoleon Hill, Think
16 and Grow Rich, or Dale Carnegie. I reflect to some
17 of those older books. But they all say the same
18 thing.**

19 **Q.** You got to think positive and work hard?

20 **A. Absolutely.**

21 **Q.** And that's what you've done in your life?

22 **A. Yes, I have. Is it easy? No. I mean,
23 if I can just relate to the situation that is
24 happening around the world right now, which is
25 extremely unfortunate. I feel for those people in**

1 **Japan right now.**

2 **Q.** Sure.

3 **A. Causes a major effect everywhere else
4 because we're all in some way, shape or form
5 connected.**

6 **Q.** Sure. Let me ask you this: Now, I
7 talked about the philosophy and all of these
8 things. I won't dwell on it more. But I'm going
9 to ask you, you spent approximately \$10,000 to
10 attend the Spiritual Warrior seminar in 2009?

11 **A. Yes. Last night I was pondering. I'd
12 like to clarify on a few items in terms of how much
13 money I --**

14 **Q.** It's going --

15 **A. But, yeah. I did spend that amount of
16 money.**

17 **Q.** It will work a lot better if we could
18 just do the back-and-forth questions.

19 **A. Sure. Sure.**

20 **Q.** You spent \$10,000 on the Spiritual
21 Warrior seminar in 2009, about?

22 **A. Yes.**

23 **Q.** Now, is it anybody's business in this
24 world to tell you how to spend your money?

25 **A. No.**

1 **Q.** Do you think the state has a right to
2 tell you how to spend your money?

3 MS. POLK: Objection, Judge.

4 THE COURT: Grounds?

5 MS. POLK: Relevance.

6 THE COURT: Sustained.

7 **Q.** BY MR. LI: Does anyone have any right at
8 all to tell you what to think?

9 **A. Well, my wife does. She's my partner.**

10 **Q.** Aside from her. I hear you on that one.

11 Believe me. Setting the wife aside for a second,
12 other than the wife, does anybody in the world have
13 a right to tell you what to think?

14 **A. No. No, they don't.**

15 **Q.** Does anybody in the world have a right to
16 tell you what you choose to read?

17 **A. No. It's what you're drawn to.**

18 **Q.** What courses you attend?

19 **A. What courses have I attended --**

20 **Q.** No. Does anybody have the right to tell
21 you what courses you attend?

22 **A. No.**

23 **Q.** Does anybody have the right to tell you
24 that you can't think for yourself?

25 **A. No.**

1 Q. Does anybody have the right to tell you
2 that you've been brainwashed?
3 A. No.
4 Q. Now, you're a grown man with a family and
5 a successful business; correct?
6 A. Yes.
7 Q. And you're an investment advisor?
8 A. Yes, I am.
9 Q. And this is for sort of a unit of a large
10 commercial bank?
11 A. Yes.
12 Q. And you, basically, do wealth management?
13 A. Yes, I do.
14 Q. And you've created the Lou Caci Wealth
15 Management Group?
16 A. Yes.
17 Q. You advise clients who have net worth in
18 the millions; correct?
19 A. Yes, I do.
20 Q. And you help them make some very
21 important decisions?
22 A. Absolutely.
23 Q. And you're very successful at it?
24 A. Yes, I am.
25 Q. And we've touched on this. But you've

1 adopted two kids?
2 A. Yes, I have.
3 Q. And having two kids and adopting them,
4 that takes a lot of courage, doesn't it?
5 A. Yes, absolutely, when they're from two
6 different countries.
7 Q. And a lot of commitment?
8 A. Absolutely.
9 Q. And --
10 A. Even if they're born onto your own, if
11 that's how you can phrase it, it's a lot of
12 responsibility, a lot of work. Not -- I don't say
13 it's work. It's a lot of fun. You get to really
14 help mold them and help them to grow and help them
15 to achieve.
16 Q. It's the best thing in life, isn't it?
17 A. It's phenomenal.
18 Q. And one of the things that you do when
19 you're at these seminars and -- you know -- working
20 with these philosophies is finding ways to be a
21 better father; isn't that right?
22 A. Yes, it is.
23 Q. And to be a better husband; right?
24 A. Yes. Absolutely.
25 Q. To be a better family member to

1 everybody; correct?
2 A. To be a better man.
3 Q. To be a better man. It's not a cult, is
4 it?
5 A. No. No. It's not a cult. If I can
6 clarify.
7 Q. Please do.
8 A. Cult -- the word "cult" is not negative.
9 What cult is is a -- Catholic faith is a cult. You
10 know, it's specified certain -- it's just groups.
11 That's considered a cult. But a cult is not a
12 negative word or connotation. It's a following of
13 a certain systematic beliefs and practices.
14 Q. And that's your definition of it?
15 A. Yeah. Yeah. The media doesn't define it
16 that way.
17 Q. Yeah. The media doesn't define it that
18 way.
19 I guess the point I'm making with you is,
20 your decision to join and to think about commitment
21 and integrity and honor and live each day like it's
22 your last and don't be a materialist and let go of
23 things that are not helpful to you in life -- these
24 are things you apply directly to being a better
25 father to those two kids you adopted; correct?

1 A. Yes. And we all have those in us --
2 those qualities. It's helping to bring them out.
3 We all have them.
4 Q. Now, you've met other people at seminars;
5 correct?
6 A. Uh-huh.
7 Q. And I think you said on direct that
8 they're good folks?
9 A. Yes, they are.
10 Q. And they are people who, like you, many
11 of them are successful?
12 A. Absolutely they are.
13 Q. And they're from all kinds of
14 professions?
15 A. Correct.
16 Q. And in 2009 in the Spiritual Warrior,
17 there were a number of doctors there, weren't
18 there, if you know?
19 A. I really don't know. I guess there were.
20 Q. If you know?
21 A. I don't.
22 Q. You've met teachers at seminars?
23 A. Yes.
24 Q. You've met engineers?
25 A. Yes.

1 Q. Entrepreneurs?
 2 A. **Lots of them.**
 3 Q. These are all decent folks?
 4 A. **They are.**
 5 Q. They're all looking for things like ways
 6 to improve their lives?
 7 A. **Yes, they are.**
 8 Q. Be better family members?
 9 A. **Correct.**
 10 Q. Be better members of their community?
 11 A. **Yes.**
 12 Q. Commit more to their church?
 13 A. **Yes.**
 14 Q. Now, Mr. Ray. He was at your wedding,
 15 wasn't he?
 16 A. **Yes, he was.**
 17 Q. He's not your guru, is he?
 18 A. **What do you mean?**
 19 Q. Okay. He's not, is he? He's not a guru?
 20 A. **Well, he is good at what -- Mr. Li, when**
 21 **someone teaches you certain things and becomes**
 22 **really good at what they do, then, yes, he is a**
 23 **guru. That's what people refer to. It's just a**
 24 **terminology. It just means a good teacher.**
 25 Q. But you would never refer to him as a

1 guru? You've never referred to him as your guru,
 2 have you?
 3 A. **No, I haven't.**
 4 Q. Let's do this. Let's not talk about it
 5 in the abstract and what other people might say.
 6 You have never referred to Mr. Ray as your guru,
 7 have you?
 8 A. **No.**
 9 Q. And you've known him for 20 some-odd
 10 years?
 11 A. **Yes, I have.**
 12 Q. And you guys have, basically, grown
 13 together?
 14 A. **Yes.**
 15 Q. You've grown?
 16 A. **Yes.**
 17 Q. He's grown?
 18 A. **He's grown.**
 19 Q. And you all have shared information
 20 together about your lives; correct?
 21 A. **Yes.**
 22 Q. Basically, from young guys into men?
 23 A. **Uh-huh, yes.**
 24 Q. Now, just really quickly. I don't recall
 25 if these were --

1 MS. POLK: Your Honor, the state will
 2 stipulate to the admission of exhibits 173 and 174.
 3 THE COURT: 173 and 174 are admitted.
 4 (Exhibits 173 and 174 admitted.)
 5 MR. LI: Thank you.
 6 Q. BY MR. LI: Now, back in Canada do you
 7 run marathons or run 10K's or anything like that?
 8 A. **No, I don't.**
 9 Q. Your children. Do they participate in
 10 taekwondo or something like that?
 11 A. **My daughter does.**
 12 Q. Did you have to sign some kind of waiver
 13 for that?
 14 A. **I don't recall.**
 15 Q. As a guardian don't you need to sign --
 16 A. **Oh. Yeah. As a guardian you need to**
 17 **sign --**
 18 Q. -- a waiver?
 19 A. **-- documents and make payments.**
 20 Q. And a waiver?
 21 A. **Yeah. I'm sure it is a waiver.**
 22 Q. And with respect to the JRI seminars, I'm
 23 not going to go into depth on this with you. But
 24 you signed some waivers; correct?
 25 A. **Yes, I have.**

1 Q. And with respect to the 2009 Spiritual
 2 Warrior seminar, you also received some waivers and
 3 signed them; correct?
 4 A. **Yes.**
 5 Q. And, in fact, you received a participant
 6 guide before you went to the seminar; correct?
 7 A. **Yes. Yes, I did. I have to recall. But**
 8 **I do remember that document now.**
 9 MR. LI: I'm going to approach the witness, if
 10 I may.
 11 THE COURT: Yes.
 12 Q. BY MR. LI: This is Exhibit 736. You
 13 recollect this participant guide?
 14 A. **I do.**
 15 Q. It's dated July 2nd, 2009?
 16 A. **Yes, it is. It's right there.**
 17 Q. And do you have any reason to doubt that
 18 you received it on July 2nd, 2009?
 19 A. **I'm not sure whether this was emailed to**
 20 **me. I can't recall right now, Mr. Li. Maybe it**
 21 **was emailed. Maybe it was mailed.**
 22 Q. But you don't have any reason to doubt
 23 that you got it sometime around July 2nd, 2009, do
 24 you?
 25 A. **I don't remember when I got it. If it's**

1 **July 2009, it's July 2009. I don't remember.**

2 **Q.** It's not critical. The only point I'm
3 making is you got the stuff several months before
4 the seminar. Right?

5 **A. Yes.**

6 **Q.** This is part of a mass emailing to
7 participants; right?

8 **A. Yes. I believe it was.**

9 **Q.** And probably like a PDF or something like
10 that? You just click and download; right?

11 **A. Right.**

12 **Q.** This went to the participants like you
13 who signed up for the 2009 Spiritual Warrior;
14 correct?

15 **A. Yes.**

16 **Q.** And if you can look at --

17 MR. LI: If I may approach, Your Honor?

18 THE COURT: Yes.

19 **Q.** BY MR. LI: The jury has seen it a lot so
20 I'm not going to spend a lot of time on it. If I
21 can look at pages 11 and 14. This is a release
22 form. Do you recall seeing something like this?

23 **A. Yes, I do.**

24 **Q.** And the back page of that, the last
25 release form you looked at was from Angel Valley?

1 **A. Yes.**

2 **Q.** Now, Angel Valley is the retreat center
3 that all of these activities took place on in 2009;
4 correct?

5 **A. Yes. That is correct.**

6 **Q.** Mr. Ray does not own Angel Valley, does
7 he?

8 **A. No, he doesn't.**

9 **Q.** JRI, the company, rents Angel Valley for
10 the seminar time; correct?

11 **A. Well, I'm assuming. Because, I mean,**
12 **we're hosting the events there. Whatever**
13 **arrangements they made, that's their doing.**

14 **Q.** You had to pay money to Angel Valley to
15 stay there, didn't you? If you recall, Mr. Caci.
16 It's totally okay if you don't.

17 **A. I can't remember. Maybe I did. I'd have**
18 **to go back and look at my statements.**

19 **Q.** Were you aware that Angel Valley built
20 the sweat lodge?

21 MS. POLK: Your Honor, objection. Assumes
22 facts not in evidence.

23 THE COURT: Sustained.

24 **Q.** BY MR. LI: Do you know who built the
25 sweat lodge?

1 **A. Well, if I remember, we gave a bit of**
2 **remunerations to a fellow there that did build the**
3 **sweat lodge. I can't remember who he was, what his**
4 **name was.**

5 **Q.** Was his name Ted Mercer?

6 **A. I guess. I don't recall.**

7 **Q.** When you say "remunerations" --

8 **A. We all chipped in \$5 and gave it to him**
9 **as a donation.**

10 **Q.** And he was not a JRI person, was he?

11 **A. No, he wasn't.**

12 **Q.** He was with Angel Valley; correct?

13 **A. I don't think so.**

14 **Q.** He was just there?

15 **A. I think he was one of the local folks**
16 **that lived in the area that knew how to build these**
17 **things.**

18 **Q.** Let me ask you this: Have you been told
19 by the state that Mr. Ray built the sweat lodge?

20 **A. No.**

21 **Q.** Have you assumed that Mr. Ray built the
22 sweat lodge?

23 **A. No.**

24 **Q.** Have you assumed that Mr. Ray chose what
25 materials to use in the sweat lodge?

1 **A. No.**

2 **Q.** Has Detective Diskin told you what
3 material that Mr. Ray chose to use in the sweat
4 lodge?

5 **A. No.**

6 **Q.** Has any of the state prosecutors -- have
7 they told you that Mr. Ray stored the sweat lodge?

8 **A. No.**

9 **Q.** I'm going to skip ahead for just a
10 second. Now, unfortunately, during the sweat lodge
11 ceremony, you put your hand into the pit?

12 **A. I didn't put my hand into the pit.**

13 **Q.** You stumbled into the pit?

14 **A. I fell in. Yes.**

15 **Q.** You stumbled into the pit?

16 **A. Yes.**

17 **Q.** I really didn't mean that you
18 purposefully stuck your hand in the pit.

19 **A. I know that.**

20 **Q.** You stumbled into the pit?

21 **A. Yes.**

22 **Q.** You went to the hospital?

23 **A. Yes, I did.**

24 **Q.** And the ambulance took you there?

25 **A. Correct.**

1 MR. LI: If I could have Exhibit 176 up on the
2 display.

3 Q. Ms. Polk walked you through this
4 document. This is the ambulance records relating
5 to this incident?

6 A. Yes.

7 Q. And let's just make this clear. You
8 actually asked not to have pain medication;
9 correct?

10 A. If that's what it says there. Do I
11 recall? I don't.

12 Q. Would it refresh your recollection to
13 look at the document to show --

14 A. Well, if he wrote on there that I -- you
15 know -- I guess -- I normally don't. I don't like
16 to take prescription --

17 Q. Pain meds?

18 A. -- pain meds or anything like that. It's
19 just one of my beliefs. That's all.

20 Q. Were you shown -- let me ask you this:
21 They also suspected -- if you could highlight the
22 possible -- and if we can just highlight the
23 possible CO2 poisoning.

24 Now, this is the emergency personnel.
25 They're the folks who got you right on the scene;

1 right?

2 A. Yes.

3 Q. And isn't it the case that they thought
4 or they said that there was possible carbon
5 monoxide poisoning?

6 A. Yes. And can I explain?

7 Q. We'll get to that. It's about your blood
8 chemistry; correct?

9 A. Yes.

10 Q. We'll get to that. They didn't take your
11 blood chemistry at the scene, did they?

12 A. No.

13 Q. Now, were you ever shown this particular
14 medical record by anybody in the state?

15 A. No.

16 Q. Now, when you went to the hospital, you
17 were treated by a Dr. Delilah Stephens. Do you
18 recall her?

19 If I could have Exhibit 175, which is in
20 evidence.

21 This is at Bates 1686. You were treated
22 by Dr. Delilah Stephens?

23 A. I can't remember her name. I remember it
24 was a lady.

25 Q. And it was a doctor?

1 A. Yes. It was a doctor. Of course.

2 Q. And she treated you?

3 A. Yes.

4 Q. And you were diagnosed with second degree
5 burns; correct?

6 A. Yes.

7 Q. And I'm not -- believe me. I'm not
8 saying that's something that isn't important. But
9 you weren't required to go to the burn center, were
10 you?

11 A. No. No. She did say I was lucky.

12 Q. You were lucky?

13 A. Yeah.

14 Q. Definitely. But you weren't -- the burn
15 that you had didn't require you to go to the burn
16 center, did it?

17 A. No.

18 MR. LI: Now, if I could have Bates No. 1683,
19 and if we could pull up the brief history of
20 present illness.

21 Q. Now, this report that your doctor created
22 on the day you went to the hospital, in that report
23 your doctor said it was unclear what happened;
24 correct?

25 A. Uh-huh. Yes.

1 Q. And then she said, we suspect that there
2 were toxic fumes or carbon monoxide; correct?

3 A. That's what it says there. Yes.

4 Q. Were you given a copy of this particular
5 report by the state, by Detective Diskin or
6 Ms. Polk or Mr. Hughes?

7 A. Was I given a copy of it by the state?
8 No. It was sent from Verde Valley.

9 Q. Did you see this part that your doctor
10 suspected that there were toxic fumes or carbon
11 monoxide?

12 A. Well, that document is at home. I don't
13 recall the exact same statement being in there, but
14 I'm sure it is. I recognize the front page of it.
15 It looks the exact same.

16 Q. And you were also tested for -- you had a
17 toxic screen -- right? -- like a toxicology screen;
18 correct?

19 A. They did other procedures. Do I know
20 what it's called exactly? No, I don't.

21 Q. They took your urine and they did a test
22 with it?

23 A. I believe so.

24 Q. And that screen relates only to things
25 like cocaine? They asked you whether you used

1 drugs; correct?

2 **A. Yes. If I recall.**

3 **Q.** And you said, I don't --

4 **A. I don't do drugs.**

5 **Q.** You also said, every now and again, I

6 smoke a cigar when I'm fishing?

7 **A. Yes. I enjoy doing that.**

8 **Q.** But besides that, I don't do drugs?

9 **A. I don't.**

10 **Q.** And they tested you for drugs, and they

11 didn't find any; correct?

12 MS. POLK: Objection. Foundation of this

13 witness to know what he was tested for.

14 THE COURT: Sustained.

15 MR. LI: Your Honor, if I may have one moment.

16 THE COURT: Yes.

17 MR. LI: Before we go big, just highlight the

18 toxicology.

19 **Q.** This is your toxicology report; right?

20 **A. Okay.**

21 **Q.** If you could, then, highlight what's

22 being tested for.

23 So what you have here is amphetamines,

24 the first negative?

25 **A. Yes.**

1 **Q.** Barbiturates?

2 **A. Yes.**

3 **Q.** Negative. Benzodia?

4 **A. Yes.**

5 **Q.** Negative. Cannabis?

6 **A. Yes.**

7 **Q.** Which is marijuana; right?

8 **A. I guess.**

9 **Q.** Negative. And then cocaine?

10 **A. Yes.**

11 **Q.** Negative?

12 **A. Right.**

13 **Q.** So it didn't test for poisons, did it?

14 MS. POLK: Your Honor, objection. Again, same

15 foundational issue.

16 THE COURT: Sustained.

17 **Q.** BY MR. LI: This is all you're aware that

18 you were tested for; correct?

19 **A. Well, those are poisons.**

20 **Q.** Understood. These are also known as

21 illicit drugs and what have you; correct?

22 **A. Yes.**

23 MR. LI: If I could have Exhibit 287, which is

24 in evidence.

25 If we could highlight the blue tarps for

1 a second.

2 MS. POLK: Objection to calling that material

3 a "tarp," Your Honor. There has been no evidence

4 that that blue is, in fact, a tarp as opposed to a

5 blanket.

6 MR. LI: I think the witness said it was a

7 tarp.

8 THE COURT: However -- go ahead and ask the

9 question. Reference by color, if you would,

10 please, Mr. Li.

11 MR. LI: If you could blow up that blue thing,

12 whatever it is.

13 MS. POLK: Your Honor, he can call it

14 "material."

15 MR. LI: Blue material.

16 **Q.** Did you -- in direct examination when

17 Ms. Polk was asking you questions, did you call

18 that a tarp? Plastic tarp?

19 **A. Yes, I did.**

20 **Q.** And you had mentioned that there were no

21 plastic tarps in the sweat lodge in 2003 that you

22 participated in; correct?

23 **A. That's what I recall.**

24 **Q.** And you don't know who built this sweat

25 lodge, do you?

1 **A. No, I don't. Mr. Li, what I know is I**

2 **assume -- well, because we gave --**

3 **Q.** I'm sorry, Mr. Caci. It's much easier if

4 we just have the back-and-forth questions. I

5 really apologize for this, but it's just how the

6 system works.

7 **A. I understand.**

8 **Q.** Thank you. Now, did the state tell you

9 that Mr. Shore, Ms. Neuman, and Ms. Brown -- did

10 the state tell you they all died of heat stroke?

11 **A. Did the state tell me they died of heat**

12 **stroke?**

13 **Q.** Yes. Has the state told you that the

14 folks who passed away died of heat stroke?

15 **A. I'm sure that's private information. So**

16 **no. They did not.**

17 **Q.** Detective Diskin has never told you that

18 the people who passed away died of heat stroke?

19 **A. No.**

20 **Q.** Have you assumed that's the case, that

21 the people died of heat stroke?

22 **A. Well, yes. Because I was in there. It**

23 **was hot.**

24 **Q.** You assumed that, though; correct?

25 **A. It was hot.**

1 Q. I understand that. But you assumed that?
 2 You're not a doctor. You don't know what caused
 3 them to die, do you?
 4 A. Yes. I assumed that.
 5 Q. And did you know, for instance, that
 6 Stephen Ray, who you were asked questions about
 7 with Ms. Polk -- remember Stephen Ray?
 8 A. Yes, I do.
 9 Q. You saw him foaming in the mouth?
 10 A. Yes.
 11 Q. Did you know that he was diagnosed that
 12 he did not have heat stroke?
 13 MS. POLK: Objection. Misstates the facts,
 14 Your Honor.
 15 THE COURT: Sustained.
 16 Q. BY MR. LI: Did you know that people
 17 suspected he had been poisoned?
 18 MS. POLK: Your Honor, objection to this line
 19 of questioning.
 20 THE COURT: Sustained.
 21 Q. BY MR. LI: Did the state ever tell you
 22 that the medical records for Stephen Ray indicate
 23 that he was suspected of having been poisoned --
 24 A. No.
 25 Q. -- just like you?

1 MS. POLK: Your Honor, objection.
 2 THE COURT: Sustained.
 3 Q. BY MR. LI: Your medical records suggest
 4 that there was a suspicion that you had been
 5 exposed to toxic fumes?
 6 MS. POLK: Objection to characterizing the
 7 medical records.
 8 THE COURT: Sustained.
 9 Q. BY MR. LI: Your medical records --
 10 A. Yes.
 11 Q. Your doctor said, we suspect that there
 12 has -- there were toxic fumes or carbon monoxide;
 13 correct?
 14 A. Correct.
 15 Q. I want to go back a little bit to the
 16 various activities you did during the week. Okay?
 17 There was a haircutting activity?
 18 A. Yes.
 19 Q. And that was difficult for you?
 20 A. Yes.
 21 Q. But you learned a lot?
 22 A. Yes.
 23 Q. And what you learned was you were
 24 attached to your appearance a bit?
 25 A. Yes.

1 Q. Did you do yoga?
 2 A. Yes.
 3 Q. Was that pretty easy for you?
 4 A. Not really.
 5 Q. Okay. But tell me how hard it was.
 6 A. Well, there was some stretches that were
 7 difficult.
 8 Q. But it's just stretching?
 9 A. That's what yoga is. It's stretching,
 10 moving energy through your body.
 11 Q. It's not mind control?
 12 A. No. It's a practice.
 13 Q. You wrote in your journal?
 14 A. Yes.
 15 Q. And there were difficult aspects of that
 16 too; correct?
 17 A. Yes, there were.
 18 Q. Sometimes you have to be honest?
 19 A. Brutally honest. Yes.
 20 Q. And say things that don't make you proud?
 21 A. Uh-huh.
 22 Q. Correct?
 23 A. Yes.
 24 Q. And I'm not going to ask you about any of
 25 the specifics of that. But part of being a man is

1 facing things that are very difficult about
 2 yourself; correct?
 3 A. Yes.
 4 Q. Now, did anyone tell you what you were
 5 supposed to write about, the exact words you were
 6 supposed to write?
 7 A. No.
 8 Q. Did anyone tell you what issues you had
 9 to deal with?
 10 A. No.
 11 Q. It was up to you whether you wanted to
 12 share any of your personal information with other
 13 people or not; right?
 14 A. Correct.
 15 Q. Nobody forced you to write things down
 16 and then tell everybody here are all my
 17 deficiencies; correct?
 18 A. Correct.
 19 Q. You did some breathing exercises?
 20 A. Yes.
 21 Q. And, essentially, you had a CD, and you
 22 listened to things on earphones; correct?
 23 A. Yes.
 24 Q. And, basically, the CD that you listened
 25 to on your earphones was like the sound of rain

- 1 coming down; correct?
- 2 **A. Yes.**
- 3 **Q.** And maybe some chimes every now and then?
- 4 **A. Yes. It's Holosync.**
- 5 **Q.** But that's it; right? It's just rain
- 6 noises and chimes happening every now and again?
- 7 **A. Right. And then there was another**
- 8 **meditation that James designed as well that we**
- 9 **would incorporate during the seminar.**
- 10 **Q.** And it's, basically, just meditating;
- 11 right?
- 12 **A. Yes.**
- 13 **Q.** You watched the movie clips?
- 14 **A. Yes. The Last Samurai.**
- 15 **Q.** And The Matrix?
- 16 **A. Yes.**
- 17 **Q.** The Last Samurai is a Hollywood film;
- 18 right?
- 19 Strike that.
- 20 It's Tom Cruise; right?
- 21 **A. Yes.**
- 22 **Q.** It's big budget. Looks big budget?
- 23 **A. Yes.**
- 24 **Q.** And it's a story about a guy who goes to
- 25 Japan and learns from them and they learn from him;

- 1 right?
- 2 **A. Correct.**
- 3 **Q.** And it's about honor and impeccability
- 4 and living a good life, a meaningful life?
- 5 **A. Right. It is.**
- 6 **Q.** Then you played -- interspersed with
- 7 that, the Samurai theme from that movie kind of
- 8 became a game too; right?
- 9 **A. Yes, it did.**
- 10 **Q.** And you were the ninja in the game?
- 11 **A. Yes.**
- 12 **Q.** This is a stupid question. But you're
- 13 not really a ninja, are you?
- 14 **A. No.**
- 15 **Q.** And everybody who played all the various
- 16 roles were just playing roles?
- 17 **A. Yes.**
- 18 **Q.** Through it, I believe on direct
- 19 examination, you said that you learned a lot of
- 20 things; correct?
- 21 **A. Yes. You learn through games. That's**
- 22 **how you play.**
- 23 **Q.** And you learned what kind of things?
- 24 **A. I learned how to be a team player. I**
- 25 **learned to help your fellow teammate or man. You**

- 1 **learned about taking orders from your leader.**
- 2 **Q.** Who was your domeo; right?
- 3 **A. Right. In the game they referred to that**
- 4 **as a domeo.**
- 5 **Q.** That's like a feudal lord or something
- 6 like that?
- 7 **A. Yeah. I guess.**
- 8 **Q.** Who was your domeo?
- 9 **A. If I recall, my domeo was Greg.**
- 10 **Q.** Greg Hartle?
- 11 **A. Yes.**
- 12 **Q.** The other domeo was this Bill Lerversee?
- 13 **A. Yes.**
- 14 **Q.** And Bill -- isn't he like inducted into
- 15 the All American Hall Of Fame for rugby or
- 16 something like that?
- 17 **A. I believe he is.**
- 18 **Q.** Big guy?
- 19 **A. Yeah. He's a big guy.**
- 20 **Q.** And then you did -- I won't go through
- 21 all of them. You didn't because you were the
- 22 ninja, but other people did a bunch of contests;
- 23 right?
- 24 **A. Yes.**
- 25 **Q.** With the crane, whoever could stand on

- 1 one leg longest; correct?
- 2 **A. Yes. Hold books up.**
- 3 **Q.** Hold books up. The egg and the spoon
- 4 race?
- 5 **A. Correct.**
- 6 **Q.** And staring contest?
- 7 **A. I can't remember that one.**
- 8 **Q.** Drinking water contest?
- 9 **A. Yes.**
- 10 **Q.** Okay. And, look, these games were really
- 11 just designed to make people compete against each
- 12 other; right?
- 13 **A. Yes, they were.**
- 14 **Q.** And they're not -- this isn't mind
- 15 control, is it?
- 16 **A. No. You're just playing a game.**
- 17 **Q.** It's just a game?
- 18 **A. Uh-huh.**
- 19 **Q.** Let's talk for a second about the Vision
- 20 Quest. Then after that I guess you had a meal or
- 21 something like that, and then you went out to the
- 22 Vision Quest; correct?
- 23 **A. No. We had the game, and then we went**
- 24 **out to the Vision Quest. We didn't have a meal**
- 25 **between there.**

1 Q. There wasn't a dinner at some point?
 2 A. I can't recall. I think the dinner was
 3 before. And then we made the game, and then we
 4 went to the Vision Quest.
 5 Q. Fair enough. I'm asking a bad question.
 6 I think the game actually lasted a long time. You
 7 had a break, had some dinner and kept on playing
 8 the game?
 9 A. No. The game --
 10 Q. Mr. Caci, it's okay. We'll move on.
 11 A. I can't remember. You know what. I do
 12 recall now. I don't. Whatever.
 13 Q. It's okay. It's fine.
 14 So then you went out on the Vision Quest?
 15 A. Yes.
 16 Q. It gets dark pretty early out in the
 17 woods; right? At that time of year it got dark
 18 around 7:00 or 8:00?
 19 A. Yes.
 20 Q. You, basically, just went to sleep?
 21 A. We built our Vision Quest, our circle,
 22 medicine wheel. And you had to enter it from the
 23 west, which means engagement. Okay? Had to stay
 24 in there for, I guess, 36 hours.
 25 Q. Okay.

1 A. And then you had to exit from the south.
 2 When it was over, they came to get you. South
 3 means transformation. You've wrote in your journal
 4 you're ready to live a new -- I guess a new life.
 5 Q. And you didn't leave your wheel during
 6 that time, did you?
 7 A. No, I did not. I played full on.
 8 Q. Okay. But at some point you just went to
 9 sleep; right?
 10 A. Well, yeah. It's nighttime. You're
 11 going to sleep.
 12 Q. I think you once said, basically, it gets
 13 dark early and you just crashed?
 14 A. Sure.
 15 Q. Did you get a lot of sleep that night?
 16 A. Well, I did wake up a few times during
 17 the night just because you're out in the woods.
 18 Q. Sleeping on rocks?
 19 A. Sleeping on the rocks is not the most
 20 comfortable thing to do.
 21 Q. You were told repeatedly during the week
 22 before the Vision Quest to hydrate, hydrate,
 23 hydrate, drink water, lots of it?
 24 A. Yes, we were.
 25 Q. And there were barrels of water

1 everywhere. Well, not everywhere but --
 2 A. There were jugs.
 3 Q. Jugs of water. And you were encouraged
 4 to keep drinking, drinking, drinking?
 5 A. Uh-huh.
 6 Q. And you did?
 7 A. I still do.
 8 Q. You still do. You weren't thirsty on
 9 your Vision Quest?
 10 A. Well, yes. I mean, I was thirsty. You
 11 still -- your body still needs water. Yes, I was.
 12 Q. You weren't hungry, were you?
 13 A. I would have loved to have something to
 14 eat. I was hungry the next day.
 15 Q. You weren't hungry when you were out
 16 there, were you?
 17 A. Well, after playing that game, I mean,
 18 you burned a lot of calories. There was a lot of
 19 calories being burned, worked up a sweat. And
 20 can't specifically say I was starving.
 21 Q. Okay. And then when you came back --
 22 well, first of all, it was safe out there; right?
 23 A. Yes.
 24 Q. You could hear the parking lot; right?
 25 A. I could hear the parking lot.

1 Q. You could hear car doors opening and
 2 closing, that sort of thing?
 3 A. From where I was, yes. It was across the
 4 river.
 5 Q. You were right on the property; right?
 6 A. Yes.
 7 Q. And you could hear car doors opening and
 8 closing?
 9 A. Yeah. I do recall I could hear people
 10 talking.
 11 Q. Okay. Could you hear a lot of laughter
 12 and -- when you said "people talking," were they
 13 men or women?
 14 A. I don't recall.
 15 Q. Were they laughing?
 16 A. I could vaguely see a trailer across the
 17 river. So someone was probably staying in that
 18 trailer. And I could hear a couple people
 19 chatting. I'm sure it was a husband and wife. I
 20 don't know.
 21 Q. All in all, this was a positive
 22 experience for you?
 23 A. Yes, it was.
 24 Q. And you got to be by yourself and think
 25 about things?

- 1 **A. Absolutely.**
- 2 **Q.** Now, sir, you chose to do each and every
- 3 one of these activities; correct?
- 4 **A. Well, it was part of the curriculum. You**
- 5 **were encouraged to do them. It's part of the**
- 6 **learning process.**
- 7 **Q.** Of course. But you made the decision --
- 8 **A. Yes. I made the decision.**
- 9 **Q.** -- to participate in each of those
- 10 activities?
- 11 **A. Yes. Uh-huh.**
- 12 **Q.** And you chose and you made the decision
- 13 to participate as hard as you wanted to or as
- 14 little as you wanted to; correct?
- 15 **A. That's correct.**
- 16 **Q.** No one made those decisions for you;
- 17 correct?
- 18 **A. Right.**
- 19 **Q.** The activity, these activities, and this
- 20 is part of your life philosophy, I think, is that
- 21 the activities have only as much value as you put
- 22 into them?
- 23 **A. That's correct.**
- 24 **Q.** And there is no magic to that, is there?
- 25 **A. No.**

- 1 **Q.** If you want to lose weight, you can't
- 2 sort of think a pizza into a salad, can you?
- 3 That's a bad question.
- 4 Basically, if you want to lose weight,
- 5 you have to commit to it; right? You've got to eat
- 6 better?
- 7 **A. Eat better.**
- 8 **Q.** You've got to work out?
- 9 **A. Work out, drink lots of water.**
- 10 **Q.** That's all you. You're the person who
- 11 decides to do that and you're the person who does
- 12 all the work?
- 13 **A. Right.**
- 14 MR. LI: Your Honor, would this be a good --
- 15 THE COURT: Thank you, Mr. Li.
- 16 Ladies and gentlemen, we'll go ahead and
- 17 take the noon recess. Please remember the
- 18 admonition and be back at 25 after 1:00. That's 90
- 19 minutes. And please recall that rule of exclusion.
- 20 You are excused.
- 21 (Recess.)
- 22 THE COURT: The record will show the presence
- 23 of the defendant, Mr. Ray, the attorneys, the jury.
- 24 The witness, Mr. Caci, has returned to
- 25 the witness stand.

- 1 Mr. Li, you may continue with the
- 2 cross-examination.
- 3 MR. LI: Thank you very much, Your Honor.
- 4 **Q.** Good afternoon, Mr. Caci.
- 5 **A. Good afternoon.**
- 6 **Q.** Yesterday Ms. Polk asked you a number of
- 7 questions about safety precautions and the like.
- 8 Do you recall that?
- 9 **A. Yes.**
- 10 **Q.** And, again, this relates to the sweat
- 11 lodge ceremony in 2009?
- 12 **A. Correct.**
- 13 **Q.** True or false. People were told
- 14 throughout the week to keep hydrated?
- 15 **A. Yes.**
- 16 **Q.** And that meant drinking lots of water?
- 17 **A. Yes.**
- 18 **Q.** And at the sweat lodge ceremony, there
- 19 were volunteers on the outside of the tent;
- 20 correct?
- 21 **A. Yes.**
- 22 MR. LI: If I could get Exhibit 145.
- 23 **Q.** You see those various individuals on the
- 24 outside? There are some of them wearing blue
- 25 T-shirts. You would agree with me those are the

- 1 volunteers who were stationed on the outside?
- 2 **A. Yes, they are.**
- 3 **Q.** They were people who, for instance, took
- 4 care of you when you came out?
- 5 **A. Yes.**
- 6 **Q.** And they had hoses there to cool people
- 7 off?
- 8 **A. Yes.**
- 9 **Q.** And you see a few buckets here; right?
- 10 You see those buckets?
- 11 **A. Yes.**
- 12 **Q.** Those were buckets that were used to cool
- 13 people off; correct?
- 14 **A. Yes, they were.**
- 15 **Q.** And there was a hose. You can't see it
- 16 very well, but there was a hose there. Do you see
- 17 that?
- 18 **A. Yes.**
- 19 **Q.** That was a hose that was used to cool
- 20 people off when they got out --
- 21 **A. Yes.**
- 22 **Q.** In case they got too hot?
- 23 **A. Correct.**
- 24 MR. LI: If I could get Exhibit 146 up,
- 25 please.

1 Q. These are the same volunteers, are they
2 not?

3 A. **Yes, they are.**

4 Q. And they're wearing that blue T-shirt you
5 were describing, the James Ray International Dream
6 Team?

7 A. **That's correct.**

8 Q. And there is one over here in the back
9 too?

10 A. **Yes.**

11 Q. That's what? Five people out there?

12 A. **Uh-huh. Yeah.**

13 Q. And, in fact, when you came out with the
14 burned arm, somebody immediately took you and
15 helped you cool off your arm in a bucket filled
16 with ice?

17 A. **Yes.**

18 Q. And then they cleaned it off, didn't
19 they?

20 A. **There is some stuff I don't remember.**
21 **But -- yeah. You know, I'm assuming they did clean**
22 **it off.**

23 Q. And at some point one of those Dream Team
24 members bandaged you?

25 A. **I don't remember.**

1 Q. Would it refresh your recollection to
2 take a look at the emergency personnel report that
3 describes the bandaging?

4 A. **Sure.**

5 MR. LI: I'm going to approach with
6 Exhibit 176, which was been admitted.

7 Q. Can you read that to yourself and look up
8 when you're done. I guess we can just blow it up.
9 Right hand bandaged prior to my arrival.
10 Somebody bandaged it up for you; correct?

11 A. **Yes.**

12 Q. Before the emergency people got there;
13 right?

14 A. **Yes. I guess that's what it -- I don't**
15 **really remember. I don't. But if that's what's**
16 **written down, I trust that it is true.**

17 Q. And you testified, I believe, on direct
18 that the person who was help taking care of your
19 arm knew what she was doing?

20 A. **I would say so.**

21 Q. Knew how to use the first aid kit and get
22 a bandage on the arm, clean it off?

23 A. **Yes.**

24 Q. Now, you also know that outside of the
25 sweat lodge there were electrolytes and fruit;

1 correct?

2 A. **Yes, there were.**

3 Q. That's just like at a marathon or a race
4 or some sort of event?

5 A. **Yes.**

6 MR. LI: Your Honor, may I approach the
7 witness with Exhibits 281 and 282 --

8 THE COURT: Yes.

9 MR. LI: -- and with the stipulation from the
10 state, move them into evidence.

11 THE COURT: 281 and 282 are admitted.
12 (Exhibits 281 and 282 admitted.)

13 MR. LI: If I could get 281 published.

14 Q. Mr. Caci, these are the electrolyte --
15 this it the electrolyte station that was up and
16 water; correct?

17 A. **That's correct.**

18 MR. LI: And if I could have 282 up.

19 Q. And this is the fruit and the other
20 things that were up in there to help refresh people
21 when they got out; correct?

22 A. **Yes.**

23 Q. In fact, you were given some fruit and
24 some water and perhaps some electrolytes as well;
25 right?

1 A. **That's correct.**

2 Q. Now, are you also aware that inside the
3 sweat lodge, in addition to Mr. Ray there were a
4 number of Dream Team members and/or employees of
5 JRI who were stationed at various positions
6 throughout the sweat lodge?

7 A. **Was I aware?**

8 Q. Yeah.

9 A. **Well, by looking at the picture.**

10 Q. Inside the sweat lodge?

11 A. **I was not aware.**

12 Q. Liz Neuman, for instance. Liz Neuman?

13 A. **Yes.**

14 Q. She was a Dream Teamer; correct?

15 A. **Yes, she was.**

16 Q. And she was stationed at the
17 9:00 o'clock -- why don't we do it this way.
18 If I could have Exhibit 414 up.
19 Now, let's assume for a second this map
20 has been sort of moved various orientations and
21 what have you. But let's start with this is the
22 entrance. And did you know, for instance, that
23 there were Dream Team members posted at each of
24 the -- can I call them "cardinal directions" or
25 starts at the 90-degree point?

1 A. Uh-huh.
 2 Q. Did you know that?
 3 A. No, I didn't. But now that I think of
 4 it, I mean, Liz was in there. So I --
 5 Q. And Liz Neuman, Ms. Neuman, was posted
 6 right here?
 7 A. Okay.
 8 Q. And Mark Rock was posted right here. Do
 9 you remember Mark Rock? He was a shaved-head guy
 10 with a sort of very pronounced goatee -- you
 11 know -- the long sort of --
 12 A. Do you have a picture of him? I can't
 13 remember.
 14 Q. We probably do. You don't remember the
 15 guy?
 16 A. I'm sorry.
 17 Q. Would it surprise you if you knew that
 18 Mr. Rock was posted at this corner?
 19 A. No. I would not be surprised.
 20 Q. And there were other JRI employees and/or
 21 volunteers posted sort of along this wall. Do you
 22 recall that?
 23 A. I don't.
 24 Q. Mr. Fredrickson, Josh Fredrickson. Do
 25 you remember him?

1 A. I remember Josh.
 2 Q. He was posted right around here?
 3 A. Okay.
 4 Q. Mr. Ray was right here?
 5 A. Yes.
 6 Q. And then next to him was Megan
 7 Fredrickson?
 8 A. I remember Megan.
 9 Q. And you remember she was sitting right
 10 there?
 11 A. Well --
 12 Q. Do you remember that?
 13 A. Not really.
 14 Q. And then next to Ms. Fredrickson was
 15 another JRI employee by the name of Taylor Butler.
 16 A. Okay.
 17 Q. But you don't have any independent memory
 18 of this?
 19 A. I don't.
 20 Q. I'm not trying to put words in your
 21 mouth.
 22 A. I don't --
 23 Q. So you don't know whether or not --
 24 A. I remember Josh being in there. I
 25 remember that.

1 Q. And you also remember, of course,
 2 Ms. Neuman being in there?
 3 A. Well, yeah.
 4 Q. And you remember the various other JRI
 5 employees in there? You remember Megan Fredrickson
 6 in there?
 7 A. Well, they were a couple. I'm assuming
 8 they were together.
 9 Q. Okay.
 10 Your Honor, if I may approach with
 11 Exhibit 232.
 12 THE COURT: Okay.
 13 Q. BY MR. LI: Now that I've shown you
 14 Exhibit 232, is your recollection refreshed that
 15 there was an individual named Mark Rock who was a
 16 Dream Teamer who was in the sweat lodge?
 17 A. Yes, I do. I remember now.
 18 Q. Did you know that their job was to stay
 19 alert and make sure everything was okay inside?
 20 A. Did I know that? No.
 21 Q. Now, one other precaution. Before the
 22 sweat lodge ceremony, Mr. Ray gave a little what we
 23 call a "pregame talk." Do you remember that?
 24 A. Uh-huh.
 25 Q. And you have to answer yes or no.

1 A. Yes. Sorry.
 2 Q. His pregame talk was a lot about what
 3 each round meant. Do you remember that?
 4 A. Yes.
 5 Q. And that it was -- he urged everybody to
 6 take it seriously. And do you remember that?
 7 A. Yes.
 8 Q. And that it was a sacred ceremony?
 9 A. Yes.
 10 Q. He also instructed everybody, did he not,
 11 how to get out?
 12 A. He instructed us on how --
 13 Q. How to get out?
 14 A. No. How to get in and how to get out.
 15 Q. Okay. So he told everybody --
 16 A. You go clockwise.
 17 Q. If you need to get out, here's how to get
 18 out. Do you remember that?
 19 A. Yes.
 20 Q. Do you remember Mr. Ray saying, so if you
 21 have to leave, then you need to, and you're right
 22 here, and you can't duck out this way, you have to
 23 go all the way around, go out of the lodge? When
 24 the gates are open, if you have to leave, you
 25 leave, and you leave very, very -- in a controlled

1 manner. Do you remember that?

2 **A. Yes.**

3 **Q.** Do you remember him saying very carefully
4 because there is legs, and it's dark? There is
5 legs, and there is knees and there is elbows,
6 and -- you know -- the last thing we want is
7 anybody in the pit?

8 Do you remember him saying that? It's
9 not a memory test. If you remember, you do. If
10 you don't, you don't.

11 **A. I'm sure --**

12 MS. POLK: Several times Mr. Li poses a
13 question and then jumps in with another question
14 and doesn't allow the witness the opportunity to
15 answer. I would ask for every question that is
16 posed that the witness be allowed to answer.

17 THE COURT: And I would say, Mr. Caci, again,
18 if you can answer yes or no, go ahead and do that.
19 If you can't, make sure that people know that. And
20 if you just can't remember, that's an appropriate
21 answer as well, if that's the truthful answer. If
22 you need time to respond because you need to think
23 back through, you need to be given that time also.

24 Okay.

25 THE WITNESS: Thank you.

1 **Q.** BY MR. LI: I apologize.

2 **A. Accepted.**

3 **Q.** Do you remember that?

4 **A. No.**

5 **Q.** Do you remember that Mr. Ray also
6 instructed everybody that you shouldn't stampede to
7 the door at the end because it was dangerous?

8 **A. Yes.**

9 **Q.** Thank you. Now, just focusing on the
10 sweat lodge for a second, you would agree with me
11 that you and all of the participants had the
12 opportunity to choose to participate in the various
13 events or not participate in the events; correct?

14 **A. Correct.**

15 **Q.** For instance, did you know that there
16 were two sisters, essentially, who had --
17 participants who decided not -- decided to leave
18 the seminar after the Vision Quest?

19 **A. After the fact. Yes.**

20 **Q.** Okay.

21 **A. After the seminar.**

22 **Q.** Did you know there was a woman, Elsa
23 Hefstad, who after hearing the pregame speech about
24 how hot it was going to be, et cetera, decided she
25 didn't want to go into the sweat lodge at all?

1 **A. No. I did not know that.**

2 **Q.** Would it surprise you? Do you have any
3 reason to believe --

4 **A. I wouldn't be surprised.**

5 **Q.** Now, each time -- once you were in the
6 sweat lodge, each time the flap opened, from the
7 first round on, people left; correct?

8 **A. From what I saw, after I was out, I saw
9 people coming out.**

10 **Q.** In the first round -- at the end of the
11 first round, three people left. Did you know that?

12 **A. No, I did not know.**

13 **Q.** And in the second round, three more
14 people left. Did you know that?

15 **A. No.**

16 **Q.** People continued to leave in the third
17 round. Did you know that?

18 **A. No, I didn't. Can I explain?**

19 **Q.** Yes. Sure.

20 **A. Okay. It was so hot in there, the only
21 thing that you can focus on is yourself.**

22 **Q.** Thank you.

23 **A. Okay. So I don't know who left, who came
24 in. And do I know how many people left? No, I
25 don't know.**

1 **Q.** Okay.

2 **A. Okay?**

3 **Q.** It's okay.

4 **A. Okay.**

5 **Q.** And I literally am just asking you
6 whether you knew --

7 **A. I understand.**

8 **Q.** -- if people came in and out.

9 Were you aware that some of the folks who
10 went out got themselves cooled off?

11 **A. No, I wasn't.**

12 **Q.** Okay. You yourself when you went out in
13 addition to being burned --

14 **A. I got cooled off. Yes.**

15 **Q.** -- you got yourself cooled off; correct?

16 **A. Yes.**

17 **Q.** And were you aware that approximately 20
18 people left the sweat lodge at various times?

19 **A. No. I don't remember.**

20 **Q.** Okay. Now, Mr. Ray never physically
21 discouraged people from leaving, did he?

22 **A. No.**

23 **Q.** In fact, the only thing he did was
24 encourage people, you can do this; correct?

25 **A. Yes.**

- 1 Q. He encouraged you, for instance?
 2 A. Yes.
 3 Q. But you also encouraged yourself;
 4 correct?
 5 A. Absolutely.
 6 Q. You -- you know -- like many of the
 7 athletic events that you have participated in and
 8 probably still participate in today, pushed
 9 yourself; correct?
 10 A. Yes, I did.
 11 Q. Now, I'd like to talk for a second
 12 about -- let's put 414 up again. I'd like to talk
 13 for a second about when you -- about the sweat
 14 lodge itself.
 15 Okay. When you first started off, if you
 16 could show the jury where you were seated.
 17 A. Right there.
 18 Q. And it was very crowded in there?
 19 A. It was tight.
 20 Q. And it was noisy?
 21 A. Well, we were told to be silent in there.
 22 Q. But there was a lot of -- okay. Well,
 23 let me take it from the top, then. So the round
 24 starts --
 25 A. Right.

- 1 Q. -- correct? And Mr. Ray leads it off in
 2 some sort of benediction; correct?
 3 A. Yes.
 4 Q. And he says things like, today I call
 5 upon the spirit of whatever and -- you know --
 6 bring in the powers to help everybody accomplish
 7 their intentions. Things along that line?
 8 A. Yes.
 9 Q. And it goes for a while, does it not?
 10 A. Yes, it does.
 11 Q. And he's really -- he's talking very
 12 loud, is he not?
 13 A. Absolutely.
 14 Q. And he's throwing a lot of emotion and
 15 passion into it; correct?
 16 A. Yes.
 17 Q. And at the end of that, then he asks for
 18 proclamations from people, and people respond;
 19 correct?
 20 A. Yes.
 21 Q. And if they want to; right?
 22 A. Correct.
 23 Q. And so some people might start yelling
 24 out -- you know -- I'm going to be -- you know --
 25 tough and I'm going to lose some weight; right?

- 1 Things like that?
 2 A. Yes.
 3 Q. And -- or things about their family. I'm
 4 going to be a better husband, father, et cetera;
 5 correct?
 6 A. Yes.
 7 Q. And it can be loud when all of this is
 8 taking place; correct?
 9 A. Yes, it can be.
 10 Q. Now, when Mr. Ray -- between each round,
 11 as he's -- you know -- after he's yelling out all
 12 of these things and exerting all that effort, the
 13 next thing that happens is he says, okay? Round
 14 over? And then the flap opens; correct?
 15 A. That's correct.
 16 Q. And then he calls. And then people leave
 17 if they want; correct?
 18 A. Yes.
 19 Q. Okay. And then Mr. Ray calls for some
 20 more stones?
 21 A. That's correct.
 22 Q. And then a five-gallon jug, or bucket,
 23 like a paint bucket, of water is brought in;
 24 correct?
 25 A. That is correct.

- 1 Q. Now, a five-gallon bucket of water
 2 probably weighs about, what, 50 pounds, give or
 3 take? 45 pounds?
 4 A. I guess.
 5 Q. Something like that? Yes?
 6 A. Yes.
 7 Q. Right?
 8 A. Yes, it is.
 9 Q. And Mr. Ray is -- he's down like this,
 10 isn't he, because the sweat lodge is pretty low --
 11 A. Well, yes --
 12 Q. -- right?
 13 A. Of course.
 14 Q. And then he's got to take this
 15 55-gallon -- or, sorry. 50 -- five-gallon, 45
 16 pounds approximately, bucket of water and kind of
 17 drag it like this towards the water. Is that about
 18 right? I mean, towards the stones.
 19 A. Yes.
 20 Q. And you saw him do this; correct?
 21 A. Yes.
 22 Q. And it takes a lot of effort, doesn't it?
 23 A. Yes.
 24 Q. And then he pours it onto the water -- I
 25 mean, onto the stones; correct?

1 A. **Correct.**
 2 Q. And it explodes in sort of a steam?
 3 A. **Steam is created.**
 4 Q. And it's explosive, isn't it?
 5 A. **Of course.**
 6 Q. And then he works his way back to his
 7 seat?
 8 A. **Uh-huh.**
 9 Q. And then the round starts again?
 10 A. **Yes.**
 11 Q. And he did this seven or eight times;
 12 right?
 13 A. **I can't remember.**
 14 Q. Would you agree with me that that
 15 probably took a lot of effort?
 16 A. **Yes.**
 17 Q. Now, at any point during the ceremony did
 18 you hear Mr. Ray himself start to falter a little
 19 in his ability to keep -- you know -- giving his
 20 speech to the participants?
 21 A. **I don't recall.**
 22 Q. But if somebody said that they did hear
 23 him start to falter, you wouldn't have any reason
 24 to dispute that, would you?
 25 MS. POLK: Your Honor, objection. Assumes

1 facts not in evidence.
 2 THE COURT: Sustained.
 3 Q. BY MR. LI: Now, I just want to clarify
 4 something. And this is something I literally just
 5 don't know. So I'm going to ask you. Did you --
 6 after you left, did you go back to your room at any
 7 point before you went back into the sweat lodge?
 8 A. **No, I did not.**
 9 Q. Okay. Now, you burned yourself. You
 10 went outside; correct?
 11 A. **Correct.**
 12 Q. And then you were cleaned off. And you
 13 got some -- you got it cooled off; correct?
 14 A. **Yes.**
 15 Q. In a bucket?
 16 A. **Correct.**
 17 Q. And then they wrapped it in a towel?
 18 A. **Mr. Li, I can't really remember. I'm**
 19 **assuming they did based on that document.**
 20 Q. Fair enough.
 21 A. **Okay.**
 22 Q. Fair enough. And then you decided to go
 23 back into the sweat lodge?
 24 A. **Yes, I did.**
 25 Q. And a Dream Team member said don't go

1 back in?
 2 A. **Correct.**
 3 Q. And you decided that you were going to
 4 push yourself anyway and go back in; right?
 5 A. **Yes.**
 6 Q. And I took some notes down from
 7 yesterday.
 8 A. **And there was another Dream Team member**
 9 **that said, it's his journey. Let him do what he**
 10 **needs to do.**
 11 Q. Fair enough.
 12 A. **Yes.**
 13 Q. So one person said don't go back in;
 14 correct?
 15 A. **Correct.**
 16 Q. And the other Dream Team member said hey.
 17 It's up to him to choose?
 18 A. **Correct.**
 19 Q. And you went back in because -- and I
 20 took some notes from yesterday. I think you said
 21 this probably six or seven different ways --
 22 A. **Uh-huh.**
 23 Q. -- because you wanted to finish?
 24 A. **Absolutely.**
 25 Q. And I believe yesterday you said it very

1 forcefully. I wanted to finish.
 2 A. **Yes, I did.**
 3 Q. And you said yesterday that it was no
 4 different than a guy going back into the game with
 5 a sprained ankle?
 6 A. **Correct.**
 7 Q. And we've all played hurt before, haven't
 8 we? You have?
 9 A. **Well, I have.**
 10 Q. Right. And, in fact, it's something you
 11 admire in your fellow teammates if they push
 12 through it to help the team?
 13 A. **Absolutely.**
 14 Q. And that's what you wanted to do; right?
 15 A. **Uh-huh. Yes.**
 16 Q. You also said that you didn't want to
 17 have any regrets?
 18 A. **Yes, I did say that.**
 19 Q. And that was true because you didn't want
 20 to have regrets?
 21 A. **Yes.**
 22 Q. And when you went back in, you passed by
 23 Mr. Ray. Do you recall that?
 24 A. **Uh-huh.**
 25 Q. And Mr. Ray looked you in the eyes and he

1 said, Lou, this one is for you?
 2 **A. Yes, he did.**
 3 **Q.** And he was encouraging you because you
 4 had made a decision to just play full on?
 5 **A. I did.**
 6 **Q.** Now, let me go back. You left the lodge
 7 in about the fourth round of the ceremony; correct?
 8 **A. I believe so.**
 9 **Q.** Okay. It's an estimate; right?
 10 **A. Yes, it is.**
 11 **Q.** And when you left in the fourth round,
 12 you didn't notice anybody in distress; is that
 13 correct?
 14 **A. That's correct.**
 15 **Q.** And then you went outside, got taken care
 16 of. And then in the seventh round -- or eighth
 17 round, the beginning of the eighth round, you went
 18 back in?
 19 **A. I can't remember whether it was the**
 20 **eighth or seventh round.**
 21 **Q.** Fair enough.
 22 **A. Yes.**
 23 **Q.** Now, a few things you said from
 24 yesterday. You said on direct examination that you
 25 heard somebody when you were inside the sweat lodge

154

1 saying, I'm having a heart attack, something along
 2 those lines. Do you remember that?
 3 **A. Someone saying that?**
 4 **Q.** Yes.
 5 **A. No. I --**
 6 **Q.** That never happened?
 7 **A. I never heard that.**
 8 **Q.** Okay. Do you know who Dennis Mehravar
 9 is?
 10 **A. Very well.**
 11 **Q.** Okay. He's from Toronto; correct?
 12 **A. Yes, he is.**
 13 **Q.** And he left during the sweat lodge
 14 ceremony, didn't he?
 15 **A. Uh-huh.**
 16 **Q.** And he was outside while you were
 17 outside; correct?
 18 **A. Correct.**
 19 **Q.** And there were two Dream Team member
 20 around him; correct?
 21 **A. Yes.**
 22 **Q.** And they cooled him down -- or they put
 23 water on him; correct?
 24 (No audible response.)
 25 **Q.** BY MR. LI: I'm sorry. For the record.

1 **A. Yes.**
 2 **Q.** And they said, Dennis, you're going to be
 3 okay.
 4 **A. I'm not sure what they said.**
 5 **Q.** But they were crouched down with him
 6 holding him and that sort of thing?
 7 **A. Yes. They were attending to him --**
 8 **Q.** Yes.
 9 **A. -- looking after him.**
 10 **Q.** Now, when you returned to the sweat
 11 lodge, you said that you got right next to --
 12 essentially, right next to where Liz Neuman was;
 13 correct?
 14 **A. Yes.**
 15 **Q.** Now, Liz Neuman was actually right here.
 16 So is it possible that when you went in, you went
 17 all the way to here?
 18 **A. I'm very sure I was in position right**
 19 **around 8:00 o'clock, right there.**
 20 **Q.** Okay.
 21 **A. Okay.**
 22 **Q.** No. It's all right.
 23 **A. Yes.**
 24 **Q.** But there were --
 25 **A. How do we know Liz didn't move?**

156

1 **Q.** It's okay.
 2 **A. Okay.**
 3 **Q.** I'm just asking you a question.
 4 **A. Sure.**
 5 **Q.** So you were in the 8:00 o'clock position
 6 here?
 7 **A. Right.**
 8 **Q.** Liz Neuman, though, was over here;
 9 correct? Okay. I'm going to --
 10 **A. Yes.**
 11 **Q.** -- clean this up a little. So if you
 12 were in the 8:00 o'clock, Liz Neuman was in the
 13 9:00 o'clock; correct?
 14 **A. Correct.**
 15 **Q.** Okay. That's all I'm asking.
 16 **A. Okay.**
 17 **Q.** All right. And Mr. Ray was over here;
 18 correct?
 19 **A. Correct.**
 20 **Q.** So do you remember how big the sweat
 21 lodge was in diameter?
 22 **A. The exact measurements I don't know. But**
 23 **it was big.**
 24 **Q.** About 23 feet in diameter maybe, which is
 25 probably about from -- end to end from me to you?

1 **A. Sure.**
 2 **Q.** And then -- so assume for a second you're
 3 in Mr. Ray's position and I'm now 90 degrees from
 4 you. So we're probably about this far apart --
 5 **A. Uh-huh.**
 6 **Q.** -- correct?
 7 **A. Uh-huh.**
 8 **Q.** And you are now -- so you are standing
 9 here -- or you're -- sorry -- standing -- you're
 10 sitting here.
 11 **A. Correct.**
 12 **Q.** And Ms. Neuman is leaned up against Laura
 13 Tucker right here; correct?
 14 **A. She's laying on top of Laura Tucker.**
 15 **Q.** Understood.
 16 **A. Okay.**
 17 **Q.** I mean, I'll get whatever terminology you
 18 want.
 19 **A. Sure.**
 20 **Q.** She's laying on top of Laura Tucker --
 21 **A. Yes.**
 22 **Q.** -- correct?
 23 Now -- and it was Laura --
 24 **A. I'm assuming. Now that you mention it,**
 25 **maybe it was Laura Tucker. I can't remember.**

1 **Q.** Okay.
 2 **A. Okay.**
 3 **Q.** But you wouldn't have any reason to doubt
 4 that it was, in fact, Laura Tucker?
 5 **A. If that's what you're saying. I mean,**
 6 **I -- like I said, I can't remember who it was. I**
 7 **remember her stating, please help me get Liz off of**
 8 **me.**
 9 **Q.** And it was a woman?
 10 **A. It was a woman.**
 11 **Q.** And do you know whether she was from
 12 Canada or not?
 13 **A. Well, I know Laura Tucker now, and she**
 14 **lives in Kelowna.**
 15 **Q.** Okay. And did you know whether or not
 16 Ms. Tucker, while she was in this position, had had
 17 a conversation with Ms. Neuman?
 18 **A. No. I did not know.**
 19 **Q.** Did you know whether Ms. Tucker had said
 20 to Liz Neuman, are you okay? Did you know that?
 21 **A. I did not know that.**
 22 **Q.** And did you know whether or not Liz
 23 Neuman said to Laura Tucker, I'm okay?
 24 **A. I did not know that.**
 25 **Q.** And did you know that Liz Newman, I mean

1 Laura Tucker, asked Ms. Neuman, do you want to get
 2 out?
 3 **A. I did not -- no. I didn't. No.**
 4 **Q.** And did you know whether or not
 5 Ms. Neuman said to Laura Tucker, no?
 6 **A. No.**
 7 **Q.** Now, Mr. Caci, I'm just going to ask you
 8 a few questions about helping. And I want you to
 9 understand ahead of time that you were not there as
 10 a first responder or something like that. Correct?
 11 **A. No. Of course not.**
 12 **Q.** And I'm not implying that you were.
 13 **A. Okay.**
 14 **Q.** Okay. And you understand and we all
 15 understand that 20/20 is hindsight, is perfect
 16 hindsight; correct?
 17 **A. Correct.**
 18 **Q.** And I'm going to represent to you that
 19 none of the questions I'm asking are in any way
 20 intended to blame anybody. Are we clear on that?
 21 **A. We're clear.**
 22 **Q.** Okay. Now, we're in court right now --
 23 **A. Uh-huh.**
 24 **Q.** -- and Judge Darrow, he sets all the
 25 rules; correct?

1 **A. Absolutely.**
 2 **Q.** And when he says stand, you stand;
 3 correct?
 4 **A. Yes.**
 5 **Q.** And if he gives you instructions, you
 6 follow them?
 7 **A. Absolutely.**
 8 **Q.** Now, if my partner over here,
 9 Mr. Kelly -- if he had a heart attack and fell over
 10 or if he said ugh and fell out of his chair, I
 11 think I have a read that you're the kind of guy who
 12 would get out of your chair and help him out.
 13 **A. Yes.**
 14 **Q.** Absolutely; right?
 15 **A. Of course.**
 16 **Q.** Without hesitation?
 17 **A. I don't know how to perform CPR, but I**
 18 **would try to help however I can.**
 19 **Q.** You would get right over there?
 20 **A. Absolutely I would.**
 21 **Q.** And you would grab Mr. Kelly, and you
 22 would say are you okay; right?
 23 **A. Yes, I would.**
 24 **Q.** And you'd wave your arms to everybody in
 25 this courtroom, and you would say, hey, we need

1 help right now.

2 **A. Absolutely.**

3 **Q.** And you might even yell louder than I

4 just did.

5 **A. I would.**

6 **Q.** And if you had your cell phone, you would

7 hit 9-1-1?

8 **A. Correct.**

9 **Q.** And you don't even know Mr. Kelly?

10 **A. No, I don't.**

11 **Q.** But you'd help him out; correct?

12 **A. Yes, I would.**

13 **Q.** I want to talk to you for a second about

14 Liz Neuman. And I want you to keep in mind what I

15 said at the beginning of this, that 20/20 is

16 perfect hindsight. Are we clear on that?

17 **A. We're clear.**

18 **Q.** Okay. When you saw Ms. Neuman --

19 **A. Yes.**

20 **Q.** -- you thought she wasn't doing so well?

21 **A. No, I did not.**

22 **Q.** But you, Mr. Caci, you didn't raise your

23 hand and yell, we got to help her?

24 **A. No, I didn't. I am pissed about that.**

25 **Q.** And I understand that. And you got to

1 let it go.

2 My question to you is, you didn't know at

3 that moment that she was dying, did you?

4 **A. Why didn't anybody else look after her?**

5 **Q.** My question is --

6 **A. Okay. I understand your question. No.**

7 **Q.** You didn't, did you?

8 **A. No, I didn't.**

9 **Q.** You didn't know that a woman you had your

10 hands on -- nobody is blaming you. You didn't know

11 that a woman that you had your hands on was dying,

12 did you?

13 **A. No, I did not.**

14 **Q.** Ms. Tucker, who was sitting right next to

15 Liz Neuman -- she didn't know anything either?

16 MS. POLK: Objection. Foundation.

17 THE COURT: Sustained.

18 MR. LI: Let me rephrase that.

19 **Q.** She didn't do anything either, did she?

20 **A. I guess not.**

21 **Q.** Nobody knew that Ms. Neuman was dying?

22 MS. POLK: Objection. Foundation.

23 THE COURT: Sustained.

24 **Q.** BY MR. LI: Had you known Liz Neuman was

25 dying, you would have done everything in your power

1 to save her; isn't that true?

2 **A. Yes, I would have.**

3 **Q.** Thank you.

4 THE COURT: Thank you, Counsel.

5 Ms. Polk.

6 MS. POLK: Thank you, Judge.

7 MR. LI: Judge, can we take a moment?

8 THE COURT: Yes. We'll take a recess for a

9 few minutes. About 10 minutes, ladies and

10 gentlemen. Please remember the admonition.

11 (Recess.)

12 THE COURT: The record will show the presence

13 of the defendant, Mr. Ray, the attorneys, and the

14 jury.

15 Mr. Caci is on the witness stand.

16 Ms. Polk.

17 MS. POLK: Thank you, Your Honor.

18 REDIRECT EXAMINATION

19 BY MS. POLK:

20 **Q.** Mr. Caci, in response to a question from

21 Mr. Li, he was asking you if you knew that doctors

22 and engineers were present at Spiritual

23 Warrior 2009. You said you did not know that there

24 were any doctors there. Do you recall that?

25 **A. Yes, I did. I do remember now. I can't**

1 **remember her name, but she had blond hair. I think**

2 **she was a dentist.**

3 **Q.** Is that Dr. Beverly Bunn?

4 **A. Yes.**

5 **Q.** Did you know at the time that she was a

6 dentist?

7 **A. I can't -- I believe I do remember it**

8 **being mentioned during the course of the week at**

9 **the seminar.**

10 **Q.** Okay. Did you ever know if there was a

11 nurse present?

12 **A. No. I did not know.**

13 **Q.** Did Mr. Ray himself ever tell you that

14 there was any medical personnel outside his sweat

15 lodge?

16 **A. No.**

17 **Q.** You were asked some questions about the

18 waivers that you signed. And I'm going to

19 specifically show you Exhibit 173, which is the

20 Spiritual Warrior waiver. Will you look at that

21 and tell the jury who signed that document.

22 **A. I signed it.**

23 **Q.** And who else signed it?

24 **A. Gabriela Casineanu.**

25 **Q.** Who was Gabriela?

1 **A. I know that she resides in Toronto.**
 2 **Q.** Was she a participant?
 3 **A. Yes. Yes, she was.**
 4 **Q.** And do you see the signature of the State
 5 of Arizona on that waiver?
 6 **MR. LI:** Objection, Your Honor.
 7 Argumentative. Relevance.
 8 **THE COURT:** Sustained.
 9 **Q.** BY MS. POLK: I'm going to hand you the
 10 Angel Valley waiver, which is Exhibit 174.
 11 **A. Uh-huh.**
 12 **Q.** How many signatures do you see on that
 13 document?
 14 **A. Just one. Mine.**
 15 **Q.** Any signatures from anybody else on that
 16 document?
 17 **A. No.**
 18 **Q.** Thank you. You talked about gathering
 19 down at the fire shortly before Mr. Ray's sweat
 20 lodge ceremony and being told to bring money to
 21 give to someone. Who told you to bring money,
 22 first of all?
 23 **A. Well, it was suggested that if we wanted**
 24 **to make a contribution, we should.**
 25 **Q.** Who, though?

1 **A. Well, Mr. Ray mentioned it.**
 2 **Q.** And who was the contribution for?
 3 **A. The person who built the sweat lodge.**
 4 **Q.** How much had you paid to attend Spiritual
 5 Warrior 2009?
 6 **MR. LI:** Objection. Relevance.
 7 **THE COURT:** Overruled.
 8 You may answer that, sir.
 9 **THE WITNESS:** A lot. We know the price of the
 10 admission, so it was nine and change, almost ten.
 11 **Q.** BY MS. POLK: But Mr. Ray suggested that
 12 you bring your own money to pay the person in
 13 charge of the fire?
 14 **MR. LI:** Objection. Argumentative.
 15 **THE COURT:** Sustained.
 16 **Q.** BY MS. POLK: I'm going to show you the
 17 medical records. And I have a question for you.
 18 I'm going to put up on the overhead Exhibit 175.
 19 And, first of all, let me show you the first page.
 20 Do you recognize this as the Verde Valley Medical
 21 Center report?
 22 **A. Yes, I do.**
 23 **Q.** And your name at the top?
 24 **A. Yes. I see that.**
 25 **Q.** And I'm going to turn to Bates page 1687.

1 Do you see that page? And it says VVMC, for Verde
 2 Valley Medical Center, Emergency Department Patch
 3 Sheet?
 4 **A. Yes.**
 5 **Q.** Do you know what a patch sheet is?
 6 **A. No. I do not know.**
 7 **Q.** Do you see the time -- well, first of
 8 all, we see the date of October 8?
 9 **A. Correct.**
 10 **Q.** And do you see the time?
 11 **A. Yes. 1850. I see that.**
 12 **Q.** Do you know where you physically were at
 13 1850?
 14 **A. Well, based on that document, I was at**
 15 **the hospital.**
 16 **Q.** Well, let me put up on the overhead
 17 Exhibit 176, which is the Verde Valley Ambulance
 18 Company record, which we looked at earlier.
 19 **A. Yes.**
 20 **Q.** And do you see, en route to hospital
 21 1837, arrival at hospital at 1902?
 22 **A. I see that.**
 23 **Q.** Okay. Would you agree with me that the
 24 patch sheet is something generated by the ambulance
 25 company while en route to the hospital?

1 **MR. LI:** Objection. Speculation.
 2 **THE COURT:** Sustained.
 3 **MR. LI:** Leading.
 4 **THE COURT:** Sustained.
 5 **THE WITNESS:** Well, if Gail would have --
 6 **THE COURT:** Mr. Caci, the objection was
 7 sustained.
 8 **THE WITNESS:** Oh. Was it sustained? I'm
 9 sorry.
 10 **Q.** BY MS. POLK: What I wanted to direct
 11 your attention to, Mr. Caci, is you were asked some
 12 questions about pain meds. And do you recall today
 13 whether or not you received pain medication from
 14 the paramedic?
 15 **A. No, I did not.**
 16 **Q.** You believe that you did not?
 17 **A. Correct.**
 18 **Q.** And do you see on the exhibit that's on
 19 the overhead the patch sheet says, morphine
 20 protocol utilized, 15 to 20 minutes?
 21 **MR. LI:** Objection. Hearsay.
 22 **THE COURT:** Overruled.
 23 **Q.** BY MS. POLK: Do you know what that
 24 means?
 25 **A. No. I don't know.**

1 Q. And do you recall, Mr. Laci, whether or
2 not at the scene -- at Angel Valley at the scene of
3 the sweat lodge an attempt was made to give you an
4 I.V. there?
5 A. No.
6 Q. You don't recall?
7 A. I don't recall.
8 Q. You stated in answer to a question from
9 Mr. Li that the doctor at the hospital said that
10 you were lucky. Do you know why you were lucky?
11 MR. LI: Objection. Calls for speculation.
12 Argumentative.
13 THE COURT: Sustained.
14 Q. BY MS. POLK: Where were you when the
15 doctor told you you were lucky?
16 A. As she was cleaning my wound.
17 Q. Okay.
18 A. Okay. I was in the hospital when she
19 told me that. Okay.
20 Q. When you were at the hospital, did you
21 see other participants from Mr. Ray's sweat lodge
22 ceremony?
23 A. I didn't see them. I knew that there
24 was -- some people were there. But did I see them?
25 No.

1 Q. And how did you get from -- did you go
2 from the hospital back to Angel Valley?
3 A. Yes, I did.
4 Q. How --
5 A. Mr. Hamilton came and picked me up.
6 Q. Who is Mr. Hamilton?
7 A. One of the owners at Angel Valley.
8 Q. You were asked by Mr. Li about the
9 writing exercises. And Mr. Li said to you no one
10 told you what to write. Did anyone suggest to you
11 the topics to write about?
12 A. What we had to do was a recapitulation
13 exercise. And it went something like this where --
14 why do you fear X, Y, Z, for example. And then you
15 had to write down everything about X, Y, Z, why you
16 feared it and why not -- or -- I can't remember how
17 the statements were. It's in my journal. But
18 there is -- why do you fear and why not to fear.
19 And so we just to had to write about that.
20 Q. Okay.
21 A. Okay.
22 Q. And you just said why do you fear
23 X, Y, Z. Who --
24 A. Well, fear is one example. It could be
25 why are you angry or why are you sad or why are

1 you -- anything to do with an emotional
2 breakthrough that you need to have.
3 Q. Who gave you those topics?
4 A. Well, it was part of the exercise.
5 Mr. Ray kind of coached us through that.
6 Q. You were asked a lot of questions by
7 Mr. Li about the choices you had during that week.
8 Did you choose to fall into the pit inside
9 Mr. Ray's sweat lodge ceremony?
10 MR. LI: Objection. Argumentative.
11 THE WITNESS: No.
12 THE COURT: Sustained.
13 Q. BY MS. POLK: Do you know whether those
14 people who were unconscious made any choices
15 about staying inside the sweat lodge?
16 MR. LI: Your Honor, objection.
17 Argumentative. Speculation.
18 THE COURT: Sustained.
19 Q. BY MS. POLK: When you fell into the pit
20 inside Mr. Ray's sweat lodge ceremony, were you
21 conscious?
22 A. Obviously not. It wasn't a choice for me
23 to fall in. I didn't choose to do that. I was
24 feeling -- I know I was dizzy.
25 Q. You talked about outside and somebody

1 caring for you and your arm being put into a
2 bucket. Do you recall that it was an ice -- was it
3 ice water?
4 A. Yes, it was.
5 Q. Do you --
6 A. It was extremely cold --
7 Q. Okay.
8 A. As I remember.
9 Q. Do you know who got that bucket of ice
10 water?
11 A. The only person I can remember is Melinda
12 helping.
13 Q. Okay.
14 A. That's all. I'm recollecting a few
15 things. I mean, Jennifer came to help and I
16 believe -- I can't remember her name. She was a
17 tall lady. Diane? No. Waters was the last name,
18 if I recall.
19 Q. Okay.
20 A. Diane.
21 Q. Do you know if Angel Valley had people at
22 the area of the sweat lodge during Mr. Ray's
23 ceremony?
24 A. Well, there was the fellow who built the
25 sweat lodge there. And I believe it was his

1 spouse, his wife. In fact, I remember going up to
 2 her and asking her, why is this happening?
 3 Q. Did she respond to you, by the way?
 4 A. She was -- she did. She had tears in her
 5 eyes.
 6 Q. And that was at some point before you
 7 reentered the sweat lodge for the last round?
 8 A. It was when I came out and my arm went in
 9 the bucket of ice. And then I got up and I went
 10 and asked her. I said, why is this happening? I
 11 kind of remember that. And then I went back and I
 12 was told to put my arm back in the bucket of ice.
 13 Q. You were shown some photographs, 281 and
 14 282. And I'm going to put 281 up on the overhead.
 15 You had talked earlier about getting something to
 16 drink after you came out of the sweat lodge. Do
 17 you know -- first of all, do you recognize this
 18 picture?
 19 A. Yes. I remember. It was under the
 20 canopy in that tent.
 21 Q. Do you know if you consumed any of the
 22 drinks shown in this picture?
 23 A. I know I did. I drank one of the two. I
 24 know I remember having a lemon water.
 25 Q. Did you drink that before you first

1 entered the sweat lodge?
 2 A. No.
 3 Q. When did you drink it?
 4 A. After when I came out. When I got
 5 injured.
 6 Q. And I'm going to put up on the overhead
 7 Exhibit 282. Do you recognize that?
 8 A. Yes, I do.
 9 Q. What do you recognize that to be?
 10 A. It's fruit. And you have orange and
 11 watermelon there.
 12 Q. Did you eat any of that fruit before you
 13 first went into Mr. Ray's sweat lodge ceremony?
 14 A. No, I did not.
 15 Q. Did you eat some later?
 16 A. Yes, I did.
 17 Q. After you came out after burning
 18 yourself?
 19 A. Yes.
 20 Q. You testified a little bit about someone
 21 named Josh Fredrickson. Do you know what Josh's --
 22 what his employment at Mr. Ray's company was?
 23 A. Well, Josh was, I guess, their technology
 24 specialist, who is very good at doing the computer
 25 work, the video -- audiovideo. That's what his

1 main duties were --
 2 Q. And was Josh inside --
 3 A. -- I think.
 4 Q. Okay. Was Josh inside the sweat lodge
 5 when Mr. Ray began the sweat lodge ceremony?
 6 A. Yes.
 7 Q. Do you know when Josh Fredrickson left
 8 the sweat lodge?
 9 A. No.
 10 Q. You said during -- in response to a
 11 question from Mr. Li that you were told to be
 12 silent inside the sweat lodge by Mr. Ray. Were you
 13 ever allowed to speak?
 14 A. Well, you weren't allowed to speak during
 15 the ceremony.
 16 Q. When were you allowed to speak?
 17 A. I guess when the flap came up, we were, I
 18 guess, allowed to check in with each other, I'm
 19 assuming.
 20 Q. Okay.
 21 A. I heard people speak, and there was lots
 22 of things being said.
 23 Q. Okay. And then you were asked some
 24 questions about your decision to go back in after
 25 you were injured at the last round. And Mr. Li

1 asked you if it was just like playing in a game
 2 when you were injured and you made the decision to
 3 go back into a game.
 4 Do you recall that?
 5 A. Yes, I do.
 6 Q. Now, when you played games as an athlete,
 7 was there a coach there?
 8 A. Yes, there was.
 9 Q. And if you were injured during a game,
 10 was it your decision or the coach's decision to
 11 allow you to go back in the game?
 12 MR. LI: Objection. Relevance.
 13 THE COURT: Overruled.
 14 THE WITNESS: Well, you always have to ask
 15 permission from the coach. You can't just go back
 16 in because there is a certain play and there is a
 17 procedure happening and -- you know -- if there is
 18 a certain play being called. But if I say to the
 19 coach, I'm okay to go in, then if he thinks it's
 20 okay, then I'm allowed to go.
 21 Q. BY MS. POLK: If the coach thinks it's
 22 okay?
 23 A. Right.
 24 Q. And when you went back in for the last
 25 round of Mr. Ray's sweat lodge ceremony, what did

1 Mr. Ray say to you as you came back in?

2 **A. He said to me, this one is for you.**

3 **Q.** Mr. Li stood up here and illustrated what
4 it must have been like for Mr. Ray to be lugging in
5 a five-gallon bucket of water and pouring it on the
6 fire and got down, crouched low, and kind of
7 dragged. Can you tell the jury what you recall
8 about Mr. Ray bringing in water to the fire?

9 **A. Well, he didn't physically go out and get**
10 **the water. It was brought to the opening, and then**
11 **he grabbed it. And the water wasn't filled right**
12 **up to the top, so it couldn't have been as heavy as**
13 **it was described.**

14 **And, basically, he dragged the water.**
15 **And you can drag the bucket along the ground too.**
16 **And I can't remember whether Mr. Ray did do that or**
17 **not. And you pour it on the hot rocks. And, of**
18 **course, it's like an explosion. It's a big steam,**
19 **and it's like a sauna in there. In fact, it's**
20 **exactly like a -- it's like going into a wet**
21 **sauna -- wet steam sauna.**

22 **Q.** And about -- if you would, tell us the
23 distance that Mr. Ray would carry or drag the
24 bucket from the position where it was left for him
25 to pour it on the hot rocks.

1 **A. Well, if Mr. Li was standing over there**
2 **and he said that the sweat lodge was from here to**
3 **there, I would say right in the middle where you're**
4 **standing is where the rocks were, just like you saw**
5 **on the diagram here.**

6 **Q.** Do you agree, Mr. Caci, that the length
7 of the sweat lodge was all the way from where you
8 are to where Mr. Li is right now?

9 **A. Sheila, I don't know. I don't know the**
10 **dimensions of it. It was a big -- it was a large**
11 **sweat lodge. Exactly the length I don't know.**

12 **Q.** And then Mr. Li put up on the overhead
13 Exhibit 414 and drew on here where he believed you
14 were and where Liz Neuman was when you came back
15 in --

16 **A. Uh-huh. Yes.**

17 **Q.** -- and where the defendant was --
18 Mr. Ray. Would you draw on here where you believe
19 you came back in and sat for that final round.

20 **A. As I mentioned, I believe I was between**
21 **7:00 o'clock and 8:00 o'clock. So either here or**
22 **here. Now, here's something that --**

23 **Q.** I'm sorry. I just cleared you. I didn't
24 mean to do that. Will you put it back up.

25 **A. Okay.**

1 **Q.** And just with another color draw a line
2 where you believe 12:00 o'clock is so we can use
3 the same language.

4 **A. And this is 6:00 o'clock here.**

5 **Q.** Okay. Where do you believe Liz Neuman
6 was when you came back in for the seventh round?

7 **A. Either here -- well, as I mentioned**
8 **yesterday, either she was to the left or right of**
9 **me. And I can't quite recall. I recall her being**
10 **leaned over, her knees right under -- her legs**
11 **right underneath her, breathing heavily and laying**
12 **on top of someone and that someone asking to help**
13 **move her off me.**

14 **Q.** You just drew her close to the edge of
15 the tent. Do you believe she was at the wall of
16 the tent or closer to the pit? She being Liz.

17 **A. No. I would say closer to the wall.**

18 **Q.** Okay. And then Mr. Li came and stood way
19 over here and suggested that this is where Mr. Ray,
20 the defendant, was and you were where you are now.
21 Does that look accurate to you in terms of --

22 **MR. LI:** Objection, Your Honor. I actually
23 didn't stand there. I stood right next to the jury
24 box right there.

25 **Q.** BY MS. POLK: I want to hear you tell us

1 how far you think Mr. Ray was from you when you
2 came back into the sweat lodge for the final round.

3 **A. If Mr. Li was standing there, I believe I**
4 **was about here.**

5 **Q.** And let me stand where you think Mr. Li
6 was.

7 **A. Mr. Li was right there.**

8 **Q.** Right here?

9 **A. So I would say I was right about here.**

10 **Q.** Okay. And orient me to which direction
11 now that the structure itself is going. This way?

12 **A. It's going this way. That's**
13 **12:00 o'clock, and that's 6:00 o'clock. Here is**
14 **9:00 o'clock.**

15 **Q.** Where would you put Liz Neuman at, then?

16 **A. I can't quite remember.**

17 **Q.** That's okay.

18 **A. Either left or right of me.**

19 **Q.** But close to you?

20 **A. Uh-huh.**

21 **Q.** And then Mr. Ray being this distance to
22 wherever you believe Liz was?

23 **A. Right.**

24 **Q.** Go ahead and sit back down. Thank you.
25 **Mr. Li asked you about conversations**

1 between other people and Liz Neuman. When you saw
2 Liz Neuman, was she having a conversation with
3 anybody?

4 **A. No.**

5 **Q. Was she conscious?**

6 **A. No.**

7 **Q. You told Mr. Li that Mr. Ray, the**
8 **defendant, was not faltering. What did you mean by**
9 **that?**

10 **MR. LI: Objection, Your Honor. I think that**
11 **misstates the testimony.**

12 **THE COURT: If you're able to answer that**
13 **question, Mr. Caci, you can. If it's not a correct**
14 **characterization, then you need to let the attorney**
15 **know that.**

16 **THE WITNESS: I can answer that question. He**
17 **wasn't faltering. He was still proceeding the**
18 **procedure as is, as if he would have initially**
19 **started. He said it with conviction and authority.**
20 **And so I didn't see him faltering or having his**
21 **voice crack or anything like that.**

22 **Q. BY MS. POLK: And then you were asked --**

23 **A. I didn't hear him -- pardon me. I didn't**
24 **see him.**

25 **Q. And then you were asked by Mr. Li to**

1 agree that if you believed Liz was dying, you
2 certainly would have helped her. But tell the jury
3 what you saw about Liz's condition that concerned
4 you?

5 **A. As I mentioned yesterday, I saw two of my**
6 **family members take their last breath. It was in**
7 **their last stages. And they're breathing heavily.**
8 **And it reminded me of exactly how Liz was**
9 **breathing. It had the same -- it had the same**
10 **heavy gasping for air type of breath.**

11 **Q. How loud was it?**

12 **A. Well, it's fairly loud. I don't know if**
13 **you've ever seen that. But it's -- depending on**
14 **how they're lying, I mean, it's loud.**

15 **Q. How loud was Liz's breathing?**

16 **A. Well, you can hear it.**

17 **Q. Did you believe it was your**
18 **responsibility to take care of Liz?**

19 **A. Do I believe I should have said**
20 **something? Yes. Is it my responsibility? No.**

21 **Q. Were you there as a doctor to take care**
22 **of other participants?**

23 **A. No.**

24 **Q. Were you in charge of that ceremony?**

25 **A. No.**

1 **Q. Who was in charge?**

2 **A. Mr. Ray.**

3 **Q. Whose responsibility do you believe it**
4 **was?**

5 **MR. LI: Objection. Relevance. Speculation.**

6 **THE COURT: Sustained.**

7 **Q. BY MS. POLK: And do you believe,**
8 **Mr. Caci, that you were clearheaded and of sound**
9 **mind when you went back into Mr. Ray's sweat lodge**
10 **ceremony for the last round?**

11 **A. Knowing what I know now, no, I was not.**

12 **Q. Thank you, sir.**

13 **Thank you, Your Honor.**

14 **THE COURT: Thank you, Counsel.**

15 **Ladies and gentlemen, do any of you have**
16 **a question for this witness?**

17 **And, Mr. Caci, please remain seated**
18 **there. We may have juror questions.**

19 **Counsel, please approach.**

20 **(Sidebar conference.)**

21 **THE COURT: I'm handing the attorneys**
22 **question 1.**

23 **Ms. Polk?**

24 **MS. POLK: The state has no objection.**

25 **MR. LI: Your Honor, we object for all the**

1 reasons that we talked about this morning about the
2 negligence issue. This is -- first of all, he did
3 help. But this witness only saw a few things and
4 then went back to his room. The relevance of what
5 this particular witness saw is tenuous at best, and
6 it goes directly to the issue of a duty.

7 **THE COURT: The --**

8 **MR. LI: It's not reckless, Your Honor.**

9 **THE COURT: Question discussed the issue of**
10 **postsweat lodge conduct. My ruling really was as**
11 **long as the event is still going on, it's part of**
12 **the event. This question is pointed and you**
13 **alerted -- you alerted earlier asking this exact**
14 **question because it has an implication.**

15 **But because of the follow up, Mr. Li,**
16 **you're going to be able to clear up limitations of**
17 **observation and those things. I'll ask it because**
18 **you will be able to follow up on it.**

19 **MR. LI: That's okay. But just to note for**
20 **the record that we believe this falls squarely**
21 **within the motion we argued this morning.**

22 **THE COURT: Negligence --**

23 **MR. LI: Implies some sort of duty. The only**
24 **issue, Your Honor, is whether or not Mr. Ray was**
25 **reckless and whether he knowingly --**

1 THE COURT: I remember. And I guess in terms
2 of part of completing the picture, if this had come
3 up originally, I would have had a problem with this
4 form of the question.

5 MR. LI: Perhaps it can be --

6 THE COURT: Go ahead, Mr. Li.

7 Ms. Polk, I just get concerned because
8 the question -- it is loaded. Just the way it's
9 phrased, it has an implication of obligation to do
10 something. I don't know that it directly fits into
11 the negligence analysis.

12 But what is your view of relevance? Why
13 is this particularly relevant? Here it is for you
14 to see it.

15 MS. POLK: Your Honor, first of all, people
16 had not died at this point. It's not clear. It
17 says, helping out people after the ceremony. I
18 think it's a fair question. Did Mr. Ray help
19 anybody get out of that sweat lodge? Did he help
20 anybody lying around? Did he start CPR? We know
21 people are still alive who passed away. It's an
22 ongoing event.

23 THE COURT: The fair question is what he saw
24 Mr. Ray doing afterwards in an open-ended fashion.
25 That would be a fair question.

1 MR. LI: Yes, Your Honor.

2 THE COURT: And, Ms. Polk, I'm going to let
3 you -- allow you to ask an open question in that
4 fashion.

5 And, Mr. Li, following up, that's how
6 it's going to be presented. I think that's the
7 whole philosophy of jury questions and what we do
8 with them. So it does need to be an open fashion
9 about what was observed.

10 Question 2?

11 MR. LI: That's fine.

12 THE COURT: Any objection?

13 MS. POLK: No objection.

14 MR. LI: No objection.

15 THE COURT: The attorneys do not object to 2.
16 I'll ask that.

17 They're looking at 3.

18 MR. LI: That's fine.

19 THE COURT: Any objection to 3?

20 MS. POLK: No objection.

21 MR. LI: No objection.

22 THE COURT: Thank you.

23 MS. POLK: You want me to ask the question --
24 you want me to ask what did you observe Mr. Ray
25 doing?

1 THE COURT: A really open-ended type question,
2 what was -- if he observed Mr. Ray at the close of
3 the ceremony, if he observed anything, not saying
4 what he -- implying what he possibly should have
5 been doing.

6 (End of sidebar conference.)

7 THE COURT: Ms. Polk, could you ask that first
8 question as modified.

9 MS. POLK: Thank you.

10 FURTHER REDIRECT EXAMINATION

11 BY MS. POLK:

12 Q. Mr. Caci, did you observe Mr. Ray at the
13 close of his sweat lodge ceremony?

14 A. **Can you explain maybe a little bit more.**
15 **Observe, like observe how he was or observe --**

16 Q. As you were leaving the sweat lodge
17 yourself, did you observe Mr. Ray at that time?

18 A. **No. All I remember him saying, it was**
19 **over, and he went out.**

20 Q. And then once you were outside, did you
21 observe Mr. Ray?

22 A. **I saw him standing around.**

23 Q. Did you see him doing anything?

24 A. **No. I'm not quite sure. Well, no. I**
25 **mean, he was standing there.**

1 THE COURT: Okay.

2 Follow up, Mr. Li?

3 MR. LI: No, Your Honor.

4 THE COURT: Ms. Polk, return the question,
5 please.

6 Thank you.

7 Mr. Caci, when you went into the pit and
8 got burned, did you sustain an open wound across
9 the palm of your hand? Or was it your wrist,
10 forearm, and elbow? I can repeat the question if
11 you need.

12 THE WITNESS: No. That's fine. I can answer.
13 The injury happened here and --

14 THE COURT: Do you want to demonstrate that to
15 the jury.

16 THE WITNESS: Oh. Show them?

17 THE COURT: As you're showing me. It's their
18 question. And I can see from here as well.

19 THE WITNESS: My injury was here to here.
20 Right here and then right here.

21 THE COURT: Thank you, Mr. Caci.

22 Counsel, follow up? And if you need the
23 question, please feel free to retrieve it.

24 MR. LI: Your Honor, if I could just state for
25 the record that the witness communicated his

1 forearm area near the wrist, the middle of his
2 forearm, and then his elbow.

3 THE COURT: Ms. Polk, just for purposes of the
4 record, is that accurate?

5 MS. POLK: I'm not quite sure. I think the
6 witness indicated part of the hand as well.

7 THE WITNESS: It was actually -- okay. You
8 can see the scar from up here to right here, right
9 where the -- just where the palm is. Not on the
10 interior. More on the outskirts.

11 THE COURT: Okay. Thank you.

12 Follow up?

13 MS. POLK: No, Your Honor.

14 MR. LI: Nothing, Your Honor.

15 THE COURT: Okay. Mr. Caci, the last
16 question. Regarding your observations of inside
17 the '09 sweat lodge, do you recall the use of blue
18 material throughout the sweat lodge or only in a
19 particular area of the lodge?

20 THE WITNESS: Do I recall blue material?
21 Other than -- I recall part of the ceremony. There
22 is -- when James -- Mr. Ray was performing the
23 ceremony, there was some herbs that went on the
24 fire. I'm not sure what they were, but they were
25 herbs of some sort. I think it was tobacco. I'm

1 assuming that's how it's practiced in the Native
2 American culture. And I recall -- and I can't say
3 that that was blue.

4 And the other thing that I recall was
5 pouches hanging from the sweat lodge because those
6 were everybody's pouches with all their intentions
7 on there. And on top of the sweat lodge, I do
8 recall seeing a blue cover. Now, whether that was
9 a tarp or not, I'm assuming it was.

10 THE COURT: The question was, regarding your
11 observations of inside the '09 sweat lodge, do you
12 recall the use of blue material --

13 THE WITNESS: Yes.

14 THE COURT: -- throughout the sweat lodge or
15 only in a particular area of the lodge?

16 THE WITNESS: The area would be right on top
17 of the -- if it's a dome like this, it would be
18 right on top of the middle area.

19 Does that make sense?

20 THE COURT: I'm going to ask the attorneys if
21 they wish to follow up.

22 MS. POLK: Thank you, Judge.

23 FURTHER REDIRECT EXAMINATION

24 BY MS. POLK:

25 Q. Mr. Caci, do you recall ever actually

1 touching the blue material?

2 A. Well, when I had to remove -- I'm sorry.

3 When I had to put my pouch -- it was -- there was
4 branches that were tied together that encompassed
5 the whole sweat lodge with poles, as we saw in the
6 picture, around the pit holding the sweat lodge up.

7 So do I recall touching it? Yes.

8 Because I had to. When I brought in my seven
9 tobacco pouches that were on the string, I had to
10 wrap them. We were told to wrap them on the
11 branches up on top.

12 Q. Do you specifically recall touching the
13 blue material or just touching the covering?

14 A. Okay. I can't specifically say whether I
15 touched the blue material or not. I don't recall.
16 If I was to look at probably that picture that we
17 saw from before and considering where I was
18 sitting, I may have touched it.

19 Q. Thank you.

20 A. You're welcome.

21 THE COURT: Follow up, Mr. Li.

22 MR. LI: Your Honor, if I may approach with an
23 exhibit?

24 THE COURT: Yes.

25 MR. LI: Your Honor, Exhibit 518. I'm going

1 to show it to the state. It has not been admitted.

2 MS. POLK: Your Honor, the state would agree
3 to the admission of Exhibit 518.

4 THE COURT: 518 is admitted.

5 (Exhibit 518 admitted.)

6 MR. LI: If I may publish Exhibit 518, please.

7 THE COURT: Yes.

8 MR. LI: Thank you.

9 RECROSS-EXAMINATION

10 BY MR. LI:

11 Q. I know we showed you a different picture
12 earlier.

13 A. Yeah. It was.

14 Q. But --

15 A. This is different.

16 Q. But this is a picture of the sweat lodge;
17 correct?

18 A. Yes, it is.

19 Q. And would this blue material that you're
20 seeing here be the material that you earlier
21 described, in addition to that other picture, as
22 the blue tarp?

23 A. Yes.

24 MR. LI: Thank you.

25 Nothing further.

1 THE COURT: Ms. Polk, did you have anything
2 further on this point?

3 FURTHER REDIRECT EXAMINATION

4 BY MS. POLK:

5 Q. Mr. Caci, do you know when this
6 photograph, 518, was taken?

7 A. I don't know.

8 Q. And do you know whether it was taken
9 before Mr. Ray conducted his sweat lodge ceremony?

10 A. No, it wasn't. I don't believe it was
11 taken before. I mean, there was no reason to take
12 pictures.

13 Q. Thank you.

14 THE COURT: Thank you.

15 Then, Counsel, may Mr. Caci be excused as
16 a witness?

17 MS. POLK: Your Honor, the state would ask
18 that he not be excused at this time.

19 THE COURT: Then, Mr. Caci, you will be
20 excused temporarily, anyway, so you can go home.
21 But you're not fully excused as a witness. You are
22 subject to recall possibly. And even if you -- and
23 that has a bearing because when people are actually
24 excused as a witness, then those people can
25 actually be in the courtroom.

1 But the other parts of that rule of
2 exclusion of witnesses still applies. You cannot
3 be communicating in any way with other witnesses
4 about the case or your testimony. That cannot be
5 done until the trial is completely over.

6 Do you understand that?

7 THE WITNESS: I understand.

8 THE COURT: And in your instance, because you
9 are subject to recall, you cannot be in the
10 courtroom either. That's not permissible. And as,
11 I think, I also indicated to you, please be careful
12 not to communicate to a third person who might be
13 conveying your testimony out there to someone else
14 who might be a witness.

15 Do you understand that.

16 THE WITNESS: I understand.

17 THE COURT: Thank you. And you are excused
18 temporarily at this time but subject to recall.

19 THE WITNESS: Thank you.

20 THE COURT: Thank you.

21 Ms. Polk, why don't we take about a
22 10-minute recess. We might take another shorter
23 recess later as well.

24 You are excused, sir.

25 And remember the admonition, ladies and

1 gentlemen. And we'll try to get started again in
2 10 minutes.

3 (Recess.)

4 THE COURT: The record will show the
5 presence of the defendant, Mr. Ray, the attorneys,
6 and the jury.

7 And, Ms. Polk and Mr. Hughes, you may
8 call your next witness.

9 MR. HUGHES: Thank you, Your Honor. The state
10 calls Dr. Armstrong.

11 THE COURT: Okay. Dr. Armstrong, if you would
12 please step to the front of the courtroom where the
13 bailiff is directing you. And then raise your
14 right hand and be sworn by the clerk.

15 JEANNE MARIE ARMSTRONG,
16 having been first duly sworn upon her oath to tell
17 the truth, the whole truth, and nothing but the
18 truth, testified as follows:

19 THE COURT: Please be seated here at the
20 witness stand.

21 Would you please begin by stating and
22 spell your full name.

23 THE WITNESS: Jeanne Marie Armstrong,
24 J-e-a-n-n-e, Armstrong, A-r-m-s-t-r-o-n-g.

25 THE COURT: Thank you.

1 Mr. Hughes.

2 MR. HUGHES: Thank you.

3 DIRECT EXAMINATION

4 BY MR. HUGHES:

5 Q. And, Doctor, can you tell us what you do
6 for a living.

7 A. I'm a family medicine doctor by training,
8 and I don't currently practice. I teach doctors
9 how to use electronic medical records and implement
10 them in their offices.

11 Q. And when is it that you became a doctor?

12 A. I completed medical school in 1997 and
13 residency in 2000.

14 Q. And which medical school did you go to?

15 A. Indiana University School of Medicine.

16 Q. Okay. And what area was your residency
17 in?

18 A. Family medicine.

19 Q. And can you tell us from what part of the
20 country you come to testify here today.

21 A. Indiana.

22 Q. Do you recall attending an event at
23 Angel Valley, the Spiritual Warrior event in 2009?

24 A. Yes.

25 Q. Was that the first event of Mr. Ray's

1 that you had attended?
 2 **A. No.**
 3 **Q.** Can you tell us, if you recall, the other
 4 events by Mr. Ray that you had attended prior to
 5 the Spiritual Warrior 2009.
 6 **A. Harmonic Wealth, Quantum Leap, Practical**
 7 **Mysticism, and Creating Absolute Wealth.**
 8 **Q.** And had you attended any of those events
 9 more than once?
 10 **A. Harmonic Wealth weekend.**
 11 **Q.** And how many times do you reckon you
 12 attended that event?
 13 **A. Two.**
 14 **Q.** Okay. Do you have an idea of how many
 15 events in total you had attended of Mr. Ray prior
 16 to the Spiritual Warrior 2009?
 17 **A. Four or five, whatever that adds up to.**
 18 **Q.** Okay. And can you tell us when -- that
 19 time period that covered those events?
 20 **A. Not exactly. I know that when I was**
 21 **asked that question previous, I did the math and I**
 22 **looked back at my records. I don't know. I think**
 23 **possibly 2005.**
 24 **Q.** And how is it that you came to attend
 25 Spiritual Warrior 2009?

1 **A. In attending other conferences and**
 2 **hearing the description, it sounded like an event**
 3 **that would be enjoyable.**
 4 **Q.** And prior to attending the event in
 5 Sedona, did you receive some information about it
 6 in the mail?
 7 **A. Yes.**
 8 **Q.** And can you briefly tell us what that
 9 information was that you received?
 10 **A. Mostly practical information -- where to**
 11 **arrive, how the lodging would work, how to obtain**
 12 **lodging, what to bring. And they usually have the**
 13 **liability waiver.**
 14 **Q.** Okay. And did you read the liability
 15 waiver?
 16 **A. I glanced through it. I didn't read it**
 17 **in great detail.**
 18 **Q.** And did you see on the liability waiver
 19 any mention of a sweat lodge?
 20 **A. Yes.**
 21 **Q.** And do you recall what it said about the
 22 sweat lodge?
 23 **A. No.**
 24 **Q.** Had you heard prior to Spiritual Warrior
 25 that you can sometimes find out what's going to

1 happen at an event by looking at the waiver?
 2 **A. I had at the last event prior to**
 3 **Spiritual Warrior.**
 4 **Q.** And is that why you read through that
 5 waiver?
 6 **A. Yes.**
 7 **Q.** Do you recall when you arrived at
 8 Spiritual Warrior 2009 what day of the week it was?
 9 **A. I think it was a Sunday, but I'm not**
 10 **100 percent sure.**
 11 **Q.** And were you given any equipment once you
 12 arrived at the conference?
 13 **A. There was a backpack, a water bottle, a**
 14 **salt and spoon, and maybe some lodging**
 15 **instructions.**
 16 **Q.** And was there any instruction about
 17 drinking water or using the salt?
 18 **A. There was mention of both, but I don't**
 19 **recall --**
 20 **Q.** Okay.
 21 **A. -- exactly what it said.**
 22 **Q.** During the week did Mr. Ray ever mention
 23 drinking water?
 24 **A. Constantly.**
 25 **Q.** And was -- now, was there a theme to his

1 discussing drinking water?
 2 **A. Hydrate, hydrate, hydrate.**
 3 **Q.** Okay. And did he ever mention the salt?
 4 **A. Yes.**
 5 **Q.** And what did he say about that?
 6 **A. There was instructions on how to use it.**
 7 **A capful perhaps.**
 8 **Q.** Now, was there a time during the week
 9 when you weren't allowed to hydrate, hydrate,
 10 hydrate?
 11 **A. Well, so we did an activity where we were**
 12 **instructed that -- it was recommended not to have**
 13 **food or water during that period.**
 14 **Q.** And do you recall the name of that
 15 activity?
 16 **A. The Vision Quest.**
 17 **Q.** And do you remember about how long the
 18 Vision Quest was?
 19 **A. Approximately 11:00 p.m., midnight one**
 20 **night, the full day, and then until the next**
 21 **morning.**
 22 **Q.** Okay. And during that time did you have
 23 anything to eat?
 24 **A. I did not.**
 25 **Q.** Did you have anything to drink?

- 1 **A. I did not.**
- 2 **Q.** And I think -- as far as will power goes,
3 did you actually inadvertently bring some food
4 along with you on the Vision Quest?
- 5 **A. I did. When I was looking through my**
6 **backpack trying to find something else, I had trail**
7 **mix.**
- 8 **Q.** Okay. Did you eat any of that trail mix
9 during the Vision Quest?
- 10 **A. I did not.**
- 11 **Q.** Okay. And you said it was recommended
12 that you not eat or drink. Who recommended that?
- 13 **A. I assume James Ray. It was part of the**
14 **instructions for the event. I don't recall**
15 **100 percent, but I assume.**
- 16 **Q.** And during the Vision Quest did you have
17 to draw a circle and stay inside of it?
- 18 **A. We built a circle with, like, logs. Yes.**
- 19 **Q.** And did you do that?
- 20 **A. Yes.**
- 21 **Q.** At some point in the week was there
22 discussion by Mr. Ray about people shaving their
23 heads?
- 24 **A. Well, initially the first day there was**
25 **discussion about that. Yes.**

- 1 **Q.** Okay. And is that something that you
2 participated in?
- 3 **A. I did.**
- 4 **Q.** Okay. And would you tell us how much
5 hair did you take off in that?
- 6 **A. Everything.**
- 7 **Q.** Okay. And how long was your hair when
8 you arrived in Sedona?
- 9 **A. A little longer than it is now.**
- 10 **Q.** Okay.
- 11 **A. Shoulder length.**
- 12 **Q.** Okay. And was there some discussion
13 during the week by Mr. Ray about staying up and
14 writing in journals at the nighttime?
- 15 **A. Well, there was discussion about writing**
16 **in journals. Yes.**
- 17 **Q.** Did you stay up on any night to -- stay
18 up maybe past normal bedtime to write in your
19 journal?
- 20 **A. Roughly I had my normal schedule. I**
21 **might have stayed up one or two nights a little**
22 **later than normal. Yes.**
- 23 **Q.** Okay. Can you tell us what normal is for
24 you.
- 25 **A. It varies. I'm sort of a night owl. So**

- 1 **I can get anywhere between five hours of sleep and**
2 **eight depending on what it is that I may be doing**
3 **and how busy I am, what I have to do the next day.**
- 4 **Q.** Did you stick to that five to eight hours
5 every night during the seminar?
- 6 **A. Yes.**
- 7 **Q.** Now, when you arrived at the seminar, had
8 you told anyone what you did for a living?
- 9 **A. At some point when you do sharing**
10 **exercises, that may come up. So I don't**
11 **specifically remember doing it. But it wouldn't be**
12 **unusual for someone to ask what you did and to**
13 **share that information.**
- 14 **Q.** Now, I think you said currently you're
15 involved in educating other doctors in the use of
16 software pertaining to doctors?
- 17 **A. Correct.**
- 18 **Q.** Back at the time the Spiritual
19 Warrior 2009 took place, did you have some other
20 involvement in addition to that?
- 21 **A. Yes. I practiced medicine part time in**
22 **an immediate care center.**
- 23 **Q.** And can you tell us what an immediate
24 care center is.
- 25 **A. It's a walk-in clinic. So anybody can**

- 1 **walk in and seek treatment typically for minor**
2 **illnesses or injuries.**
- 3 **Q.** If my child has a sore throat and I take
4 him in, is that the place you go?
- 5 **A. Yes.**
- 6 **Q.** Okay. And can you tell us -- you said
7 you were working there part time. How -- what was
8 part time for you back when you were attending
9 Spiritual Warrior?
- 10 **A. At that time, it was probably a weekend a**
11 **month. It varied over a couple-year period from**
12 **every weekend, to two weekends, then to every --**
13 **well, one weekend a month.**
- 14 **Q.** And had you ever treated a patient for
15 heat stroke at the time you arrived in Sedona?
- 16 **A. No.**
- 17 **Q.** Had you seen patients with some sort of a
18 heat-related illness?
- 19 **A. Yes.**
- 20 **Q.** And can you tell -- obviously I don't
21 want you to go into confidences about a patient.
22 But can you tell us in general what sort of heat
23 related illnesses you've treated?
- 24 **A. Heat rashes, sunburns, and people with**
25 **very mild heat exhaustion who would, like, overdo**

1 **it in the heat and come in and just didn't feel**
2 **well.**

3 **Q.** At some point -- obviously you saw in the
4 waiver there is mention of a sweat lodge. Did you
5 know when in the week the sweat lodge was going to
6 take place?

7 **A. No.**

8 **Q.** Did you know when you arrived in Sedona
9 whether the sweat lodge was even actually
10 guaranteed to take place?

11 **A. No.**

12 **Q.** At what point did you first learn there
13 was going to be a sweat lodge event?

14 **A. The day of the sweat lodge.**

15 **Q.** And can you give us in reference where
16 that day of the sweat lodge was with respect to the
17 Vision Quest that you had attended.

18 **A. It was the next day. Well, that morning**
19 **we came home from the Vision Quest. The sweat**
20 **lodge was later that day.**

21 **Q.** Okay. And when you came home from the
22 Vision Quest, were you able to eat or drink
23 anything?

24 **A. Yes.**

25 **Q.** And can you explain -- let us know what

1 you had to eat or to drink that morning.

2 **A. I returned back to my room. I had**
3 **whatever water was in my bottle, which was about**
4 **half of a -- I don't know how many ounces, but a**
5 **big, recyclable drinking container.**

6 **And then at breakfast I had eggs. I**
7 **don't recall the rest. I know I have answered that**
8 **question previously; so it may be in the**
9 **transcript. But I had eggs, I know. I think I had**
10 **fruit. And then I drank another half to full**
11 **bottle of water.**

12 **Q.** Was there any sort of a theme to the diet
13 that week?

14 **A. It was a vegetarian diet.**

15 **Q.** And approximately, then, after eating
16 breakfast, what time did you, then, learn about the
17 sweat lodge taking place?

18 **A. So after breakfast I took a shower. We**
19 **met where we had the meetings. And it was shortly**
20 **thereafter.**

21 **Q.** Do you know --

22 **A. I don't remember the time.**

23 **Q.** Do you have any idea about whether it was
24 the morning or the afternoon?

25 **A. I don't recall.**

1 **Q.** And do you recall how long that meeting
2 took place?

3 **A. Half hour, 45 minutes, would be my guess.**
4 **But I am not sure.**

5 **MR. HUGHES:** Your Honor, may I approach the
6 witness?

7 **THE COURT:** Yes.

8 **Q.** BY **MR. HUGHES:** Doctor, I'm going to show
9 you what's marked as Exhibit 320. And other than
10 the identification tag hanging on that bottle, can
11 you tell us if you recognize what's depicted in
12 Exhibit 320?

13 **A. Yes. That's the water bottle we were**
14 **given that I was referring to that I drank from.**

15 **MR. HUGHES:** Your Honor, the state would move
16 the admission of Exhibit 320.

17 **THE COURT:** Ms. Do?

18 **MS. DO:** No objection, Your Honor.

19 **THE COURT:** 320 is admitted.

20 (Exhibit 320 admitted.)

21 **MR. HUGHES:** And may I publish it, Your Honor?

22 **THE COURT:** Yes.

23 **Q.** BY **MR. HUGHES:** And, Doctor, having taken
24 a look at that water bottle, does that help you to
25 recall the approximate volume that the water bottle

1 held?

2 **A. No. I'm terrible at estimating volumes.**
3 **So whatever the standard is for that bottle.**

4 **Q.** Would you reckon it was bigger than the
5 water bottle in front of you right now?

6 **A. Yes.**

7 **Q.** Do you recall how much time you had from
8 the end of this briefing about the sweat lodge
9 until the time the sweat lodge first began?

10 **A. I don't. I would estimate, again,**
11 **30, 40 minutes possibly, but I'm not sure.**

12 **Q.** And had there been some discussion about
13 whether lunch was going to be offered or
14 recommended that day?

15 **A. I don't recall.**

16 **Q.** Okay. Do you recall if you ate lunch
17 that day?

18 **A. I don't recall.**

19 **Q.** And can you tell us what, if anything,
20 you were told to wear down to the sweat lodge
21 ceremony.

22 **A. Comfortable clothes that you can get**
23 **dirty. I think there was some mention of bathing**
24 **suits.**

25 **Q.** And would you tell us what it is you wore

1 down to the ceremony.

2 **A. I wore a Nike Dri-FIT shirt and cotton**
3 **shorts.**

4 **Q.** And what's a Dri-FIT -- Nike Dri-FIT
5 shirt?

6 **A. They're the shirts for exercise that wick**
7 **sweat.**

8 **Q.** It's sort of like a T-shirt?

9 **A. Yes.**

10 **Q.** Had you ever been in a sweat lodge prior
11 to that day in Sedona?

12 **A. No.**

13 **Q.** Had you ever been in saunas or steam
14 rooms?

15 **A. Briefly, yes.**

16 **Q.** And can you tell us when it is you
17 believe you had last been in a sauna or a steam
18 room prior to the sweat lodge in 2009.

19 **A. Probably sometime in the prior 12 months,**
20 **but I don't recall.**

21 **Q.** And you said briefly. Do you recall how
22 long you went in?

23 **A. Less than two minutes.**

24 **Q.** Okay. Can you tell us why that was.

25 **A. I don't generally like being hot, but I**

1 **do like spas, however. And so most high-end spas**
2 **have steam rooms and sauna. They always are**
3 **recommended. So I always think I should try, but I**
4 **usually don't make it more than a few seconds. I**
5 **don't like the hot air, how it feels when you**
6 **breath it, and it just never appealed to me. I**
7 **never enjoyed it; so I never stayed.**

8 **Q.** Do you recall whether prior to going into
9 the sweat lodge Mr. Ray gave anyone a briefing on
10 what to do if there is an emergency inside the
11 sweat lodge?

12 **A. Not emergency. No.**

13 **Q.** Do you recall whether he told anybody to
14 check on or to take care of people sitting around
15 them?

16 **A. I don't recall.**

17 **Q.** And do you recall whether during that
18 briefing Mr. Ray was asked about a medical
19 condition by a woman?

20 **A. Somebody asked a question regarding some**
21 **medication they were taking and whether that would**
22 **be a problem is what I recall.**

23 **Q.** And do you recall whether Mr. Ray said
24 anything about nausea or throwing up?

25 **A. I don't.**

1 **Q.** Now, at Angel Valley were you staying on
2 your own, or can you tell us what your lodging
3 accommodations were?

4 **A. I had two roommates. There were three of**
5 **us total in a tepee.**

6 **Q.** And do you recall who your roommates
7 were?

8 **A. One was Brandy Amstel, I believe was her**
9 **name, and the other person I'm unsure of. I**
10 **believe her name was Elsa or something like that.**

11 **Q.** And do you know whether your roommates
12 went into the sweat lodge that day?

13 **A. Brandy did. My other roommate, when we**
14 **were preparing, we were changing clothes to go to**
15 **the sweat lodge, said she was not going to**
16 **participate; so I assumed she didn't, but I don't**
17 **know that.**

18 **Q.** And did you see her down there?

19 **A. Not that I recall.**

20 **Q.** Now, when you arrived down at the sweat
21 lodge ceremony, can you kind of walk us through
22 what the events were when you arrived down there.
23 Did everybody just troop right into the sweat
24 lodge?

25 **A. No. We gathered. I think they might**

1 **have used sage in some capacity to sort of prepare**
2 **us. And we took our shoes off and then we gathered**
3 **by a fire and then we lined up and went in.**

4 **Q.** And then you said they used sage to
5 prepare us. Can you tell us what you mean by that?

6 **A. I don't recall specific details of all**
7 **the symbolisms. But it's just a cleansing routine,**
8 **for lack of a better word, to prepare you to go**
9 **into the sweat lodge.**

10 **Q.** And did you participate in that activity?

11 **A. Yes.**

12 **Q.** At some point did Mr. Ray have people
13 gather around a fire to burn some papers?

14 **A. I believe so. Yes.**

15 **Q.** And what do you mean you believe so?

16 **A. I know it was sort of taking place. I**
17 **was a little preoccupied at the time because we had**
18 **taken our shoes off and I had gotten several thorns**
19 **in my feet. So I was sort of halfway between where**
20 **they were doing that and what was going on. So I**
21 **really wasn't paying much attention to what exactly**
22 **was going on.**

23 **Q.** And where were you when you said you
24 were -- you noticed the thorns in your feet? Can
25 you tell us approximately where you were.

1 **A. From where the water station was to where**
 2 **the fire -- there was some tarps there, I think, as**
 3 **well -- that distance, in walking that distance.**

4 **So I stopped about halfway to tend to my feet.**

5 **Q.** And while you were tending to your feet,
 6 do you know whether Mr. Ray was talking to the
 7 participants over by the fire?

8 **A. I believe so. Yes.**

9 **Q.** At some point after that, did people line
 10 up to go into the sweat lodge?

11 **A. Yes.**

12 **Q.** Okay. And I'm going to show you what's
 13 been admitted as Exhibit 144. And there's a glare
 14 there. But can you see that picture okay on the
 15 screen?

16 **A. Yes.**

17 **Q.** And does that picture, Exhibit 144, look
 18 familiar to you?

19 **A. Yes.**

20 **Q.** Can you tell us what is depicted, then,
 21 in that exhibit.

22 **A. On the left hand where it looks like an**
 23 **open tent, I believe, is where the water was, line**
 24 **to go in the sweat lodge. And it appears that**
 25 **there is a fire to the right of this picture.**

1 **Q.** And did you ever have anything to drink
 2 from inside that tent where the water was?

3 **A. I'm not sure.**

4 **Q.** And what do you mean by you're not sure?

5 **A. I had one glass of water after the sweat**
 6 **lodge while I was sitting outside because someone**
 7 **brought it to me. So I don't know what the source**
 8 **was.**

9 **Q.** Okay. Do you recall what the water was
 10 brought to you -- was it in one of these water
 11 bottles like you had identified earlier?

12 **A. No. It was in a cup, I believe.**

13 **Q.** And I'm going to show you what's admitted
 14 as Exhibit 321. Do you recall -- did -- these cups
 15 that are depicted in that photo -- are those
 16 similar to the cups that the water got brought to
 17 you in?

18 **A. I assume so. It was some kind of**
 19 **disposable cup. I don't remember what it looked**
 20 **like.**

21 **Q.** Okay. Were you paying attention to what
 22 it was in?

23 **A. No.**

24 **Q.** At that point? Okay. We'll get there in
 25 a couple of minutes. Can you tell us where you

1 were, if you recall, in the line going into the
 2 sweat lodge. Do you remember? Were you in the
 3 front of the line, the middle, or the end?

4 **A. I'd say it was about the middle.**

5 **Q.** Okay. And do you recall then -- I'm
 6 showing you Exhibit 414. Do you recall
 7 approximately where you were sitting inside the
 8 sweat lodge?

9 **A. Yes.**

10 **Q.** And did you stay in one place or multiple
 11 places during the sweat lodge ceremony?

12 **A. Pretty much the same place, although it**
 13 **was in the back row. And then I moved to the front**
 14 **row directly in front of where I was originally**
 15 **sitting.**

16 **Q.** And if you were to look at this exhibit
 17 that's up on the screen and pretend for a moment it
 18 was a clock face, can you tell us approximately
 19 where on the clock face it was that you originally
 20 sat down when you first came into the sweat lodge.
 21 And actually what you could do, Doctor, when you
 22 tell us, that screen in front of you is a touch
 23 screen. So you can touch on that screen and make
 24 an "X" or put a dot, if you can, as far as the
 25 approximate place you were sitting.

1 **A. Okay. It was about 7.5, but against the**
 2 **back row.**

3 **Q.** Okay. Do you recall how far it was
 4 between you and the door to the sweat lodge?

5 **A. I don't in distance. Maybe five people**
 6 **or so. I don't recall.**

7 **Q.** Okay. And do you recall were there --
 8 was there one row or were there two rows of people
 9 between you and the door?

10 **A. Where I was initially sitting there was**
 11 **only one row. There was no one directly in front**
 12 **of me.**

13 **Q.** Okay. And at some point during the
 14 ceremony, did that change?

15 **A. Yes.**

16 **Q.** Okay. And we'll get to that in just a
 17 moment. Do you recall the -- when the ceremony
 18 began what the temperature felt like during the
 19 first round of the ceremony?

20 **A. So during the ceremony?**

21 **Q.** Yes.

22 **A. Hot.**

23 **Q.** Okay. And when is it that you first
 24 perceived that there was heat inside the sweat
 25 lodge?

1 **A. When the water was put on the rocks to**
2 **make steam.**

3 **Q.** And do you recall who put the water on
4 the rocks?

5 **A. It was dark. I believe James Ray did all**
6 **the water, but I don't know that.**

7 **Q.** Do you know from what location the water
8 was poured onto the pit?

9 **A. So in front of it on the same side as the**
10 **entrance.**

11 **Q.** Okay. Can you -- I'll put up a new
12 color. Can you mark out for us approximately where
13 the person was when the water was put in the pit.

14 And do you have any idea the distance
15 between yourself and that location approximately?

16 **A. I do not.**

17 **Q.** You indicated when the water was put on,
18 you felt a change in temperature?

19 **A. Yes.**

20 **Q.** And can you describe for us what the
21 temperature felt like after the water was on those
22 rocks.

23 **A. It was hot. But the more I think -- the**
24 **sensation was really just instantly started**
25 **sweating.**

1 **Q.** Okay. And so can you tell us whether you
2 felt any change in humidity inside the sweat lodge?

3 **A. I can't. I don't recall specifically**
4 **thinking it was more or less humid.**

5 **Q.** And do you know how much water got put on
6 those rocks on the first round?

7 **A. I do not. It was in a large bucket, but**
8 **I don't know how much was contained in the bucket.**

9 **Q.** Do you know whether the whole bucket got
10 dumped in on any particular time?

11 **A. I do not.**

12 **Q.** Okay. And do you know how much water got
13 dumped on the rocks on any round during the
14 ceremony?

15 **A. I do not.**

16 **Q.** Showing you Exhibit 144 again, do you see
17 some buckets in that exhibit?

18 **A. Yes.**

19 **Q.** Do those buckets appear similar to the
20 ones that were used to put water on the rocks?

21 **A. Yes.**

22 **Q.** Can you tell us, was there some sort of a
23 theme or a commonality to how each round was
24 conducted inside the sweat lodge? Was there an
25 order to things?

1 **A. Once the flap was closed and the round**
2 **began, I think early in that process more water was**
3 **placed on the rocks. And then there would be a**
4 **series of talking and activity, for lack of better**
5 **word.**

6 **Q.** And can you tell us who was directing the
7 talking and the activity?

8 **A. James Ray.**

9 **Q.** At some point during the rounds, did
10 Mr. Ray direct people to speak out or speak
11 intentions if they chose to?

12 **A. Yes.**

13 **Q.** Okay. Can you tell us, did that occur in
14 every round?

15 **A. I believe so, but I'm not sure.**

16 **Q.** Now, were you -- did you know anybody
17 else sitting with you inside that sweat lodge?

18 **A. Yes.**

19 **Q.** And would you mark for us, then, on this
20 chart, Exhibit 414, where you were sitting.

21 Then if you would mark out the locations
22 of other people who you were aware of inside the
23 sweat lodge.

24 **A. Somehow the image got bigger.**

25 **Q.** Okay. Let me -- will zooming out help

1 you get your perspective back?

2 **A. Okay.**

3 **Q.** Okay. Let me zoom out a little more for
4 you. Does that help?

5 **A. Yes. Thank you.**

6 **Q.** Okay. There is a red dot. And can you
7 tell us what that symbolizes.

8 **A. That was my position in the sweat lodge.**

9 **Q.** Okay. And let's put up a new color. Can
10 you start showing the locations of other people
11 that you were aware of during the first round.

12 **A. It's to my immediate left. I didn't do a**
13 **very good job there.**

14 **Q.** Well, I tell you, with a touch screen
15 where you touch, it's only approximate where it
16 pops up on the picture.

17 Can you tell us what the green dot
18 symbolizes?

19 **A. The person to my immediate left was**
20 **Christine Mattern, I believe is her last name.**

21 **Q.** And who is Christine Mattern?

22 **A. She was another attendee who I had met**
23 **previously at another event. We had -- were**
24 **standing next to each other as we went in.**

25 **Q.** Okay. And you mentioned you met her at

1 another event. Do you recall which event that was?

2 **A. Practical Mysticism.**

3 **Q.** And do you remember about when that was
4 in relation to the Sedona event?

5 **A. June of the same year.**

6 **Q.** And how is it that you came to meet her
7 at that event?

8 **A. At that event we were divided into small**
9 **groups that we did activities with, and we were in**
10 **the same group.**

11 **Q.** And did those groups have names?

12 **A. Warrior groups.**

13 **Q.** And because of knowing Christine, then,
14 at that prior event, did that have any relation to
15 where the two of you wound up sitting inside the
16 sweat lodge?

17 **A. Only because we were talking in line**
18 **before we went in. So we gravitated to where each**
19 **other were because we were talking.**

20 **Q.** Okay. And would you point out for us
21 then -- and I'll put another color up there. Can
22 you point out where anybody else was sitting, if
23 you recall.

24 **A. I believe that at each of the other**
25 **points there were people on the Dream Team, but I**

1 **don't know who they were by name.**

2 **Q.** And what is it that makes you believe
3 that?

4 **A. I thought in the instructions that they**
5 **said that the spots that represented the**
6 **directions, like north, south, et cetera, that**
7 **that's what was going to happen.**

8 **Q.** And --

9 **A. But I didn't see those people.**

10 **Q.** And can you tell us who said that.

11 **A. James Ray.**

12 **Q.** All right. And would you point out for
13 us what you mean at the other points, then.

14 And do you -- and I'll put a new color
15 up. Do you happen to know where the defendant was
16 sitting?

17 **A. Somewhere in that vicinity.**

18 **Q.** Okay. Do you know whether there is
19 anybody sitting between him and the entrance?

20 **A. I don't. I don't believe so. But I**
21 **don't know.**

22 **Q.** Okay. Do you know approximately what
23 distance he was from the entrance?

24 **A. I don't. When the flap was opened so**
25 **there was enough light, I could sort of make out**

1 **his left side.**

2 **Q.** Okay. And was -- do you recall any other
3 particular people sitting anywhere else in the
4 sweat lodge during the first round?

5 **A. Based on how we walked in, I believe**
6 **there were some employees of JRI sitting near**
7 **Mr. Ray, but I don't know the order or where they**
8 **were sitting.**

9 **Q.** And what do you mean by based on how you
10 walked in?

11 **A. Because you could see how people were**
12 **lined up to go in. I was roughly -- because we**
13 **lined up to walk in. And you could see who was**
14 **standing by each other. And so flanking on either**
15 **side of James Ray were people who worked for --**
16 **that I recognized as working for JRI.**

17 **Q.** And do you have any idea approximately,
18 then, where they would have been sitting in the
19 sweat lodge?

20 **A. I assume, again, based on the order we**
21 **walked in that it would have been near him, like in**
22 **that area.**

23 **Q.** Could you actually see that?

24 **A. When the flap was down, it was pitch**
25 **dark. When the flap was up, you could make out**

1 **little things but not enough to identify people.**

2 **Q.** When the flap was up, what would you --
3 how would you describe the lighting in the sweat
4 lodge area where you were in over in this vicinity?

5 **A. You know, there was -- if you would look**
6 **towards the flap, there was a lot of light coming**
7 **in in that direction. Because it had been pitch**
8 **dark, it took you a little bit to accommodate to**
9 **that light. So typically I tried not to look at**
10 **the light --**

11 **Q.** Uh-huh.

12 **A. -- because the going back and forth to**
13 **the dark and the light just didn't accommodate**
14 **well.**

15 **Q.** Do you recall whether a fellow named
16 Scott was sitting anywhere particular in the sweat
17 lodge?

18 **A. I don't.**

19 **Q.** Okay. Do you recall -- you indicated
20 that you stayed in approximately the same location
21 the entire time?

22 **A. Yes.**

23 **Q.** And do you remember when it is that you
24 moved from one row to another row in that location?

25 **A. I don't know the rounds. No.**

1 Q. Do you know how many rounds there were?
 2 A. **I don't.**
 3 Q. Do you recall how long the entire sweat
 4 lodge ceremony took to run from beginning to end?
 5 A. **I don't know for sure.**
 6 Q. Were you able to keep a clear track of
 7 time while you were inside the sweat lodge?
 8 A. **No.**
 9 Q. And can you tell us whether you noticed
 10 any change in temperature inside the sweat lodge
 11 from the first round through the end?
 12 A. **When the flap was open, I'd get a little**
 13 **bit of a breeze. That would be the only big**
 14 **change. Otherwise, it felt -- to me it just felt**
 15 **hot the whole time. I didn't notice a change.**
 16 Q. Can you compare -- you mentioned you'd
 17 been in steam rooms at least for a few minutes on
 18 prior occasions. Can you compare the sweat lodge
 19 to those steam rooms or saunas that you'd been in.
 20 A. **To me it was much different. It was**
 21 **almost more like exercising because you were just**
 22 **drenched in sweat. My previous experience with a**
 23 **sauna or a steam room, I didn't feel like I was**
 24 **sweating. It just felt hot. In the sweat lodge,**
 25 **it was just very sweaty.**

1 **Also, I don't like -- part of it is in a**
 2 **lot of steam rooms and saunas the air is, I don't**
 3 **know, flavored with, like, Eucalyptus and those**
 4 **kind of things. And so I feel like that's**
 5 **difficult to breathe. It feels hot. I did not**
 6 **have that feeling -- I didn't feel like it was**
 7 **difficult to breathe in the sweat lodge per se.**
 8 Q. Did the air inside the sweat lodge smell
 9 like it was flavored with anything?
 10 A. **No.**
 11 Q. Could you smell smoke drifting into the
 12 sweat lodge from the fire outside?
 13 A. **I don't recall that. No.**
 14 Q. And do you know whether at any time any
 15 sort of plant material got thrown on the hot rocks?
 16 A. **I don't recall.**
 17 Q. Do you recall any sort of a burning plant
 18 sort of odor in the air, though?
 19 A. **No.**
 20 Q. And you indicated that was something that
 21 you find unpleasant in the upscale saunas you've
 22 been in before?
 23 A. **Yes.**
 24 Q. Okay. You mentioned that sweat began to
 25 come off your body.

1 A. **Yes.**
 2 Q. Do you know how long after -- and we're
 3 talking about the first round -- how long after the
 4 rocks had water added to them that you first
 5 noticed the sweat coming off your body?
 6 A. **It seemed instantaneous. I don't know if**
 7 **that's possible. But it seemed right away.**
 8 Q. And can you describe -- was it a moist
 9 brow, or was it -- you know -- sweat just pouring
 10 off your body or somewhere in between?
 11 A. **You know, initially probably somewhere in**
 12 **between. I mean, I felt like my hair was getting**
 13 **sopped and, like, I was sweating profusely.**
 14 Q. And was that during the first round?
 15 A. **Yes.**
 16 Q. And did that feeling or characterization
 17 hold true for the remainder of the rounds?
 18 A. **Yes.**
 19 Q. Do you remember what your breathing was
 20 like inside?
 21 A. **Initially when it started, I could tell**
 22 **that I was hyperventilating. I was breathing very**
 23 **quickly. I think part of it was the anticipation.**
 24 **It was dark. And I wasn't sure exactly what was**
 25 **going to happen in terms of -- you know -- never**

1 **being in the sweat lodge before. So I could feel**
 2 **that I was sort of hyperventilating without cause**
 3 **at that point. So I had taken notice of that.**
 4 Q. Now, you mentioned without cause. Had
 5 you been involved in an exercise earlier in the
 6 week called "Holotropic breathing"?
 7 A. **Yes.**
 8 Q. And can you tell us briefly what that is.
 9 A. **It's a breathwork technique from, I**
 10 **believe his name is Dr. Stan Grof or Grof where you**
 11 **hyperventilate to try and do hypoxia to have an**
 12 **altered state of consciousness.**
 13 Q. And you used a word that I'm guessing you
 14 know and smarter people than me know. Can you tell
 15 me what "hypoxia" means?
 16 A. **Low oxygen.**
 17 Q. And some participants have mentioned that
 18 they fell asleep while they were doing this
 19 Holotropic breathing. Do you know a medical reason
 20 why it is they might fall asleep during Holotropic
 21 breathing?
 22 A. **No.**
 23 Q. Does the hypoxia have any effect on
 24 whether a person -- or can it have any effect on
 25 whether a person stays awake or falls asleep?

1 **A. It's possible.**

2 **Q.** And can you explain why that might be.

3 **A. I'm not an expert in that area; so I'm**
4 **not sure that I can other than give you my own**
5 **personal experience. In that type of breathing, I**
6 **find it personally very hard to maintain. Your**
7 **body has a set point. Your body doesn't**
8 **necessarily want you to do that.**

9 **And so for me personally, I often fell**
10 **asleep. But I didn't relate that to my breathing**
11 **because most of the time I could feel myself return**
12 **to a normal rate of breathing. And -- you know --**
13 **a lot of times it's real late in the evening that**
14 **you're doing these events.**

15 **Q.** Uh-huh.

16 **A. So you're laying on the ground. And so**
17 **it didn't take much for me to have a little nap.**

18 **Q.** Okay. Do you recall at some point during
19 the sweat lodge, did you change position as far as
20 sitting up or laying down?

21 **A. Yes.**

22 **Q.** And when did that take place?

23 **A. At the beginning of the second round.**

24 **Q.** And how is it that you changed position
25 inside?

1 **A. There was no one in front of me, so I,**
2 **basically, laid down with my head towards the**
3 **outside.**

4 **Q.** And by "outside," are you referring to
5 the wall of the sweat lodge?

6 **A. Yes.**

7 **Q.** Okay. And can you tell us, when you were
8 laying down, were you face up or face down?

9 **A. Face down.**

10 **Q.** Could you notice any difference in the
11 temperature from when you were sitting up and when
12 you were laying down?

13 **A. It felt cooler. Plus, actually laying on**
14 **the dirt, the dirt against your skin, that -- you**
15 **could just feel the cool the entire time.**

16 **Q.** You mentioned that you were
17 hyperventilating and you slowed your breathing
18 down. Did you do anything else with respect to
19 your breathing while you were inside the sweat
20 lodge?

21 **A. Yes. When I noticed I was**
22 **hyperventilating, I just really consciously almost**
23 **tried to meditate and just really notice my**
24 **breathing and slow it down as slow as possible. I**
25 **also noticed initially that my heart was racing,**

1 **beating very fast. And so I concentrating on**
2 **bringing that down as well. And so breathing**
3 **slowly and concentrating, I got them down to -- you**
4 **know -- a normal level for me.**

5 **Q.** And do you know when that took place with
6 respect to the beginning, middle, or end of the
7 ceremony?

8 **A. I -- that -- for me that was all in the**
9 **beginning. You know -- as the ceremony maintained,**
10 **I was able to maintain that pattern for the most**
11 **part. And so I was really just concentrating on**
12 **sort of that state the entire time.**

13 **Q.** And you said you were concentrating on
14 that state. While you were doing that, were you
15 looking around to other areas inside the sweat
16 lodge?

17 **A. No.**

18 **Q.** And did you attempt to concentrate on
19 your breathing, then, throughout the entire sweat
20 lodge ceremony?

21 **A. Yes.**

22 **Q.** At some point did you do something with
23 your shirt with respect to breathing?

24 **A. So early on, since I wasn't sure exactly**
25 **what the experience would be like and having been**

1 **in the saunas and, et cetera, and not liking that,**
2 **I actually put my shirt up over my head just to --**
3 **so the air I would breath would be less perfumed,**
4 **et cetera, if that existed.**

5 **Q.** At some point did you realize that there
6 wasn't a perfume in the air?

7 **A. I never tried.**

8 **Q.** Okay. Is it possible, then, that there
9 was and you couldn't smell it because of your
10 shirt?

11 **A. I have no idea. I assume there could be.**

12 **Q.** Do you remember during the ceremony
13 whether -- first of all, let me ask you, do you
14 know a fellow by the name of Lou, or did you know a
15 fellow by the name of Lou?

16 **A. I don't know him, but I recognize the**
17 **name.**

18 **Q.** Okay. And do you recall whether anything
19 happened to Lou during the sweat lodge ceremony?

20 **A. Yes. At some time during the course, he**
21 **attempted to leave when the flap was down; so it**
22 **was dark and he walked towards the fire pit and, I**
23 **believe, got burned.**

24 **Q.** Okay. And let's -- I'm going to clear
25 some of these marks on here. And would you point

1 out, again, where you were sitting.

2 And then would you -- let's start with
3 that, where you were sitting. And were you in the
4 front row or the back row at that point?

5 **A. I believe I still had the row to myself.**

6 **Q.** Okay. And was this -- do you remember
7 which round this was?

8 **A. I do not.**

9 **Q.** Do you remember beginning, middle, or end
10 of the ceremony?

11 **A. I would say middle, but I'm not sure.**

12 **Q.** Was time kind of a blur at that point?

13 **A. The whole thing was a blur in that
14 regard.**

15 **Q.** Okay. And you mentioned that he tried to
16 leave. Did you actually see him get up and try and
17 leave?

18 **A. No. I heard the commotion. And so when
19 I looked up, I saw him -- you know -- the best I
20 could with the low light.**

21 **Q.** Was there any light inside at all?

22 **A. It was dark, but I could roughly make out
23 a figure of a person.**

24 **Q.** Could you -- was there any light
25 emanating from the pit?

1 **A. Not that I know of.**

2 **Q.** Okay. And you said there was a
3 commotion. Was that your first indication that
4 something was going on?

5 **A. Yes.**

6 **Q.** Okay. And tell us what the commotion was
7 that you heard.

8 **A. I believe it was Lou screaming in pain.**

9 **Q.** Okay. Well, did you hear a male
10 screaming in pain?

11 **A. Yes.**

12 **Q.** Okay. And would you point for us, if you
13 can -- when that happened, did you pick your head
14 up off the ground?

15 **A. Yes.**

16 **Q.** And were you able to ascertain any
17 particular zone or sector within the sweat lodge
18 where that sound was coming from?

19 **A. (No audible response.)**

20 **Q.** And after you heard that voice screaming,
21 what did you hear next or see next?

22 **A. There was some discussion of people
23 recognizing what was going on and trying to aid him
24 in getting out.**

25 **Q.** Okay. What do you mean by "aid him in

1 getting out"? Did you hear anybody say anything

2 with respect to Lou getting out?

3 **A. I recall that there was a conversation
4 and people were talking, but I don't recall exactly
5 what the words were. No.**

6 **Q.** Do you recall who it was that was
7 talking?

8 **A. Several people. I believe James Ray
9 spoke and recommended someone help him. But other
10 people were talking at the same time.**

11 **Q.** Do you know, did the -- you indicated
12 this happened while the flap was still closed.

13 **A. Initially, yes.**

14 **Q.** And did the round end right then and
15 there?

16 **A. I believe so.**

17 **Q.** Okay. And did you actually see Lou leave
18 the sweat lodge at that point?

19 **A. Well, with the light the way it was, I
20 saw some people helping a gentleman out when the
21 flap was open shortly -- right after that happened.
22 And I assumed it was Lou based on what I could see
23 of him.**

24 **Q.** Okay. And after that incident, did you
25 ever hear anybody inquire as to how Lou was doing

1 after that point?

2 **A. The next time I heard that name mentioned
3 was at the end. Several people came back in and
4 someone said, Lou's back.**

5 **Q.** And you mentioned at the end. Can you
6 remember what round that would have been?

7 **A. I don't know the number of rounds. But
8 he came in, and then the last round took place, I
9 believe.**

10 **Q.** And that was a bad question on my part.
11 At the end, did you mean at the end when everything
12 was over, or did you mean before the last round was
13 to begin?

14 **A. Prior to the last round.**

15 **Q.** Do you recall a woman inside the sweat
16 lodge by the name of Amy?

17 **A. Yes.**

18 **Q.** And can you tell us who Amy was.

19 **A. Well, initially I did not know who Amy
20 was, but I had an acquaintance at the event named
21 Amy. So I sort of perked up when I heard that
22 name. And when I looked up and she was being
23 removed, I recognized her as the person I knew by
24 name.**

25 **Q.** Okay.

1 **A. I don't know her last name.**
 2 **Q.** You mentioned she was an acquaintance.
 3 Was she someone you had spoken to during that week?
 4 **A. Yes.**
 5 **Q.** And do you happen to know Amy's last
 6 name?
 7 **A. I don't know. No.**
 8 **Q.** Okay. And what was it that drew your
 9 attention to Amy inside the sweat lodge?
 10 **A. She was being carried out.**
 11 **Q.** Okay. And do you remember when that was?
 12 **A. I do not.**
 13 **Q.** Do you remember whether anybody was
 14 saying anything about that?
 15 **A. Well, somebody said that she, I believe,**
 16 **was unconscious, and people suggested that someone**
 17 **help. And then some guys carried her out is what I**
 18 **recall.**
 19 **Q.** Okay. Well, let's put up another color
 20 up here. Can you -- do you recall where it is that
 21 you heard the voice saying that Amy was
 22 unconscious?
 23 **A. You know, just on the other side. I**
 24 **can't be real specific, but it was somewhere over**
 25 **here, I mean, just across from where I was.**

1 **Q.** Okay. And do you recall whose voice that
 2 was?
 3 **A. No.**
 4 **Q.** And do you recall what happened after?
 5 Was that when the flap was open or closed?
 6 **A. I'm not sure.**
 7 **Q.** Okay. And do you recall what happened,
 8 then, after the voice said, Amy is unconscious?
 9 **A. So, shortly thereafter people -- the**
 10 **thing I could actually see was that she was being**
 11 **carried out.**
 12 **Q.** Okay. Do you remember who it was that
 13 carried her out?
 14 **A. They appeared to be male.**
 15 **Q.** Okay. And can you put another color up
 16 here. Can you point out for us the direction it is
 17 that they carried Amy out.
 18 Do you recall the defendant saying
 19 anything about Amy?
 20 **A. I don't.**
 21 **Q.** At some point during the ceremony, did --
 22 the while the flap was closed, did you see some
 23 light come into the sweat lodge?
 24 **A. Yes.**
 25 **Q.** And can you tell us where it is. Let's

1 take some of these marks off. Is the blue mark
 2 approximately where you were sitting?
 3 **A. Yes.**
 4 **Q.** Can you tell us approximately where it is
 5 that you saw the light coming in?
 6 **A. Somewhere over here.**
 7 **Q.** And maybe I asked you this. Do you
 8 remember when in the ceremony it was?
 9 **A. I don't.**
 10 **Q.** What happened when -- when you saw the
 11 light?
 12 **A. So, I was laying down. So I could just**
 13 **tell there was light. And somebody mentioned**
 14 **something about a flashlight. So then I sat up a**
 15 **little bit, and I could sort of see the light but**
 16 **much like the flap when the light came in. It was**
 17 **a little disarming.**
 18 **At the time I assumed because it was**
 19 **bright enough that it appeared like part of the**
 20 **structure was being lifted up only because that**
 21 **would be the only thing that I could think of that**
 22 **would bring in that much light. It wasn't a**
 23 **pinpoint, like a flashlight. It was more like the**
 24 **equivalent of the flap but on the other side.**
 25 **Q.** And you mentioned someone mentioning

1 something about a flashlight. Do you remember who
 2 that was?
 3 **A. I do not.**
 4 **Q.** Do you remember Mr. Ray commenting about
 5 the light?
 6 **A. He said something about who has a -- I**
 7 **recall something about is there a flashlight.**
 8 **Because there was people talking at that point**
 9 **about is there a flashlight? Is that a flashlight?**
 10 **Q.** Do you recall seeing anybody else -- you
 11 mentioned Amy. Do you recall seeing anybody else
 12 carried in -- or carried out of the sweat lodge
 13 during the ceremony?
 14 **A. No.**
 15 **Q.** Do you recall ever hearing someone making
 16 a comment maybe outside about dying or having a
 17 heart attack?
 18 **A. I do not.**
 19 **Q.** Would that surprise you if that happened?
 20 **A. If someone said they were having a heart**
 21 **attack, yes. I would be concerned about that.**
 22 **Q.** Okay. Well, that was a bad question. In
 23 other words, were you concentrating on what was
 24 going on, in the latter part of the ceremony about
 25 what was going on in the rest of the sweat lodge?

1 **A. No. It was noisy. Lots of people were**
 2 **talking. I just kept my face down and just really**
 3 **went inside myself. I was thinking about my life**
 4 **and what I was going to do with it. And I really**
 5 **wasn't paying much attention to what was going on**
 6 **around me.**

7 **Q. Okay. And I guess the better question**
 8 **would have been not whether you heard that, but is**
 9 **it possible that could have been said and you**
 10 **just -- you didn't hear it?**

11 **A. Sure.**

12 **Q. Before the last round began, you**
 13 **mentioned that you saw Lou coming back inside?**

14 **A. I didn't see him. I heard someone say**
 15 **that Lou was coming in. And I sort of had to move**
 16 **out of the way because lots of people were coming**
 17 **in. And so -- but I didn't really look up. I just**
 18 **sort of scrunched myself in the corner.**

19 **Q. And you mentioned you had to move or**
 20 **scrunch yourself. Can you tell us how the -- what**
 21 **the relationship was between people coming in and**
 22 **your having to move.**

23 **A. Well, when people would come in, they**
 24 **would walk in this direction. And so there is not**
 25 **a lot of room. So, basically, I just moved out of**

1 **the way so people could walk around. A lot of**
 2 **people sat between the entrance and where I was or**
 3 **in that area.**

4 **Q. And you mentioned earlier in your**
 5 **testimony this afternoon that at some point there**
 6 **was only one row in your area. And at some point**
 7 **that changed.**

8 **A. Yes.**

9 **Q. Can you tell us, was it -- what point it**
 10 **was during the ceremony that changed from one row**
 11 **to two rows.**

12 **A. I don't know exactly. It was in the**
 13 **latter half. As people would come back in, a lot**
 14 **of them would sit just because there was space**
 15 **right immediately inside. And so where there had**
 16 **previously just been one row, people filled in the**
 17 **second row.**

18 **Q. And would that be, then, in that area**
 19 **where the red is you've indicated?**

20 **A. Yes.**

21 **Q. Okay. And at some point before that**
 22 **happened, do you recall whether there was one row**
 23 **or two rows to the area to your left?**

24 **A. The two rows that were in the sweat**
 25 **lodge, the inside row stopped well before where I**

1 **was. I would guess it was -- maybe stopped**
 2 **somewhere in here. I don't know. But from my**
 3 **perspective, there was no one in front of me or in**
 4 **front of the several people to my left.**

5 **Q. Did you have enough room before the**
 6 **beginning of the last round to lie down in a prone**
 7 **position?**

8 **A. Yes.**

9 **Q. Do you remember how long the door was**
 10 **open in between rounds?**

11 **A. It seemed to vary. Again, I had no**
 12 **really -- I had no concept of time. It just seemed**
 13 **to vary. Sometimes it was -- seemed fairly short.**
 14 **And sometimes it seemed like it was open for a very**
 15 **long time.**

16 **Q. And I realize this question may be asking**
 17 **a broken clock what time it is. Do you have any**
 18 **idea, then, whether the flap was open a longer time**
 19 **or a shorter time before the beginning of the last**
 20 **round?**

21 **A. To me it felt like it was open a longer**
 22 **time, but I also at that point was hot and sweaty**
 23 **and impatient, and I wanted -- I knew the end was**
 24 **there. And I felt very confident that -- you**
 25 **know -- I felt good that I -- you know -- had met**

1 **this challenge.**

2 **And so -- but at the same time, I was**
 3 **ready for it to be over. But it seemed like**
 4 **because there were a lot of people coming in, it**
 5 **just took longer to get everybody settled. And**
 6 **lots of people were talking. And I just kept**
 7 **thinking to myself it's almost done.**

8 **Q. Do you remember how the ceremony ended?**

9 **A. Not per se. Just -- I know the flap was**
 10 **opened and people started to leave. I don't**
 11 **remember anything leading up to that.**

12 **Q. And when the flap opened and people began**
 13 **to leave, can you tell us -- you know -- was there**
 14 **an order or an organization to how people left?**

15 **A. Yes. We walked in that direction towards**
 16 **the entrance and very much single file, like the**
 17 **way we came in. And so being near the end, I had**
 18 **to wait a little bit for people to move in front of**
 19 **me so I could go.**

20 **Q. Were you in the first half, the middle,**
 21 **or the last half of the people who left the sweat**
 22 **lodge?**

23 **A. I guess I assumed I was in the latter**
 24 **half.**

25 **Q. And were there people -- you mentioned**

1 there were people to your right. Did those people
 2 leave after you did, then?
 3 **A. I assume. Yes.**
 4 **Q.** Okay. And as you left, you indicated you
 5 were leaving in that direction; correct?
 6 **A. Correct.**
 7 **Q.** Did you see anybody who appeared to be
 8 unconscious or having difficulty getting out of the
 9 sweat lodge?
 10 **A. I did not. Well, let me clarify that.**
 11 **The person behind me was having some difficulty**
 12 **walking; so I was guiding that person. So I was**
 13 **focused on them because that person was having**
 14 **difficulty. So I was really focused on that**
 15 **person.**
 16 **I was walking to the inside of that**
 17 **person. So I was holding their arm to my left**
 18 **so -- because the hot pit of rocks was to the**
 19 **right, I was focused on looking at the hot pit of**
 20 **rocks --**
 21 **Q.** You put yourself between that person and
 22 the pit?
 23 **A. Yes.**
 24 **Q.** Okay. Do you remember who that person
 25 was?

1 **A. Greg Hartle.**
 2 **Q.** Okay. And had Greg moved into the
 3 position to your right at some time after the first
 4 round?
 5 **A. Sometime near the end he moved in front**
 6 **of where I was sitting. And he asked me to change**
 7 **positions at a later round, like the next round.**
 8 **And so we had swapped. But he was behind and to**
 9 **the right of me with his feet sort of touching me.**
 10 **Q.** And is that, then, when you -- you
 11 mentioned you moved to the front row at some point.
 12 Is that the point?
 13 **A. Yes.**
 14 **Q.** And the -- I have to ask you. Do you
 15 remember what round that was?
 16 **A. I have no idea.**
 17 **Q.** Okay. And then can you show us
 18 approximately where it was that Greg was sitting
 19 once you became aware that he was in your vicinity.
 20 **A. So, initially he sat just in front of me**
 21 **a little to the left.**
 22 **Q.** Okay. And at some point, then, that's
 23 when you switched places?
 24 **A. Yes.**
 25 **Q.** And I had asked you earlier if you could

1 point out where particular people were during the
 2 first round. And then at some point after the
 3 first round, do you remember where other particular
 4 people happened to be?
 5 **A. So, pretty much to the left of me.**
 6 **Christine Mattern was there the whole time. But**
 7 **when I moved in front, she was going to be more**
 8 **behind me.**
 9 **Q.** Uh-huh.
 10 **A. When people came back in, I believe**
 11 **someone named Beverly came and sat sort of in front**
 12 **of me initially, and I was lying down. And there**
 13 **was plenty of room to the right. So at some point**
 14 **I said -- I said -- you know -- I'm laying there.**
 15 **You're going to have to move a little bit to the**
 16 **right.**
 17 **And then at a later time when it really**
 18 **started to fill in and more people came back, then**
 19 **Greg Hartle sat directly in front of me. And that**
 20 **was one round. The next round he asked if I would**
 21 **switch places, which I did. And when he -- when we**
 22 **switched -- because I was taking up some pretty**
 23 **much room because I had been lying down. And so he**
 24 **sort of went in that position but more to the right**
 25 **of where I was --**

1 **Q.** And when you --
 2 **A. -- initially.**
 3 **Q.** When you switched, did you, then, move
 4 into a sitting up position?
 5 **A. I basically -- and I moved forward. I**
 6 **still laid down, but I, basically, sat Indian style**
 7 **and just laid on my own body as opposed to laying**
 8 **flat on the ground.**
 9 **Q.** You mentioned someone named Beverly came
 10 to sit near you. Was that towards the end of the
 11 ceremony?
 12 **A. Yes.**
 13 **Q.** And do you happen to recall what her last
 14 name was?
 15 **A. I do not.**
 16 **Q.** If you heard it again, would that jog
 17 your memory? Or do you know?
 18 **A. I don't know that I ever heard her last**
 19 **name. I don't know. I might.**
 20 **Q.** Do you happen to know what she did for a
 21 living?
 22 **A. I have no idea.**
 23 **Q.** Okay. Can you tell us, was she tall or
 24 short?
 25 **A. Tall. Because she took up a fair amount**

1 of room.

2 Q. Okay. And do you remember what her hair
3 color was?

4 A. I think it was blond.

5 Q. When you -- how long did it take you to
6 get outside?

7 A. I would assume less than a minute from
8 when I started walking. There was maybe a minute
9 or two where people were walking -- or three or
10 four other people were walking. So when it was my
11 turn to walk, it took less than a minute to walk
12 around and get out.

13 Q. And were you helping Greg Hartle during
14 that time?

15 A. Yes. He was walking on his own power. I
16 was just more guiding him. He seemed a little
17 woozy.

18 Q. Okay. And you said "walking." Was the
19 structure tall enough for you or Greg to stand up
20 inside?

21 A. I could pretty much stand up all the way.
22 I'm fairly short. I might have been crouched a
23 little bit. But particularly being on the inside
24 of the pathway, I could stand up.

25 Q. Okay. And when you got outside, what

250

1 happened?

2 A. So we walked outside and sort of greeted
3 by -- you know -- people who are lying there. And
4 people congratulated me, I believe, and directed me
5 to a tarp. Shortly thereafter I sat on a tarp.
6 And somebody through a cold bucket of water on me
7 and brought me a glass of water.

8 Q. Okay. And we talked about the water. Do
9 you remember, was it warm outside? Was it cold
10 outside, or could you tell at that point?

11 A. I don't think I could tell at that point.
12 I mean, I felt hot. The water felt good when it
13 hit me. Somebody brought a second bucket on me,
14 but I declined because I thought that might be
15 cold.

16 Q. And you mentioned you sat down on the
17 tarp; correct?

18 A. Correct.

19 Q. I'm going to show you Exhibit 144. And I
20 apologize for the photo because we're now after the
21 sweat lodge. But do you see some tarps in that
22 photo?

23 A. Yes. I see the corner there. There is a
24 reflection so --

25 Q. Let me see what I can do about that

1 reflection.

2 A. Now I see it. Yes.

3 Q. You can -- can you see them a little
4 better?

5 A. Uh-huh.

6 Q. Okay. And can you point or draw a little
7 "X" for us, if you can, in the approximate location
8 you came and sat down.

9 A. I can't from that picture. It's not the
10 same proportion of walking out. Because when I
11 walked out, apparently there were a lot more tarps.

12 Q. Okay. Were you on a tarp nearer to the
13 tent with the refreshments or nearer to the fire?

14 A. I sort of got the impression that I was
15 on the -- if I'm facing the tarps, I'm at the
16 entrance to the sweat lodge facing the tarps, I was
17 on the right-hand side almost to the end of where
18 the tarps stopped. I don't know where the fire was
19 in relationship to that.

20 Q. Okay. At some point after you had that
21 cold water thrown on you, did you notice that the
22 situation appeared to be out of the ordinary going
23 on around you?

24 A. I was having my drink of water and I
25 didn't notice anything per se. But someone yelled

252

1 for help to the right of where I was sitting. So I
2 turned and stood up and went to where they asked
3 for help.

4 Q. And the water -- I may have asked you
5 already. Do you recall, was it electrolyte or
6 water? Did it have a lemon flavor or anything like
7 that?

8 A. I don't recall it having a flavor to it.
9 But someone just handed me the cup. And I only got
10 about two sips out of it before someone asked for
11 help.

12 Q. Okay. And do you recall what help was
13 requested of you?

14 A. Somebody -- I heard a male voice say, I
15 need help over here. That's all I heard at that
16 time.

17 Q. And did you go over to where that voice
18 was coming from?

19 A. Yes.

20 Q. Do you know whose voice it was?

21 A. I believe the gentleman's name was Bret.

22 Q. And what did you see when you got over to
23 where Bret was?

24 A. He was sitting and he was holding up a
25 female older than myself who appeared to be in

1 **distress.**

2 **Q.** And what do you mean by "appeared to be
3 in distress"?

4 **A.** She had her eyes closed. She appeared to
5 have mucus in her nose and some frothy sputum,
6 which is liquid coming from your mouth. And she --
7 you know -- was -- I don't know if I thought at
8 that instant that she looked like she may be
9 delirious. But she definitely was not at a normal
10 state of consciousness.

11 **Q.** And do you know who the woman was?

12 **A.** Her name was Sidney.

13 **Q.** And did you provide any help?

14 **A.** Yes.

15 **Q.** What did you do?

16 **A.** I didn't know her other than her name was
17 Sidney. So I, basically, just went through the
18 ABCs. I could see that her chest was rising, so
19 she was breathing. I felt for a pulse. She had a
20 strong pulse at that time.

21 Because she was not in a normal state of
22 conscious, I did something called a "sternal rub"
23 where you take your knuckles and painfully rub on
24 someone's sternum. It's a painful stimuli to see
25 how neurologically someone is intact or they will

1 withdraw from that stimuli is how they will
2 respond. She had a blunted response to that. And,
3 basically, I said we need to call an ambulance.

4 **Q.** You mentioned you checked on the ABCs.
5 Can you tell us what you meant by that.

6 **A.** So if someone is in distress, in the
7 priority in terms of maintaining life is airway,
8 breathing, and circulation, so ABC. If you don't
9 have a patent airway, you can't get air in.
10 Breathing is also the act of having respiration.
11 And circulation and having a pulse is that your
12 heart is beating.

13 **Q.** And at some point did you leave Sidney
14 and move to somewhere else?

15 **A.** Yes.

16 **Q.** When did that happen?

17 **A.** Literally I did the sternal rub on
18 Sidney. She had -- like I said, she had a pulse
19 and she was breathing. And someone, I believe it
20 was Bret, said, they're doing CPR over there. And
21 he pointed in the opposite direction. I said,
22 well, do you feel comfortable? You know,
23 basically, as long as she continued to breathe,
24 there is nothing else to do at this moment. Can I
25 go over there? He said, yes. And I ran to where I

1 **saw people doing CPR.**

2 **Q.** Had you -- prior to that occasion, had
3 you told Bret that you were a doctor?

4 **A.** When I came -- when he said he needed
5 help, when I came upon, I identified myself as
6 being a doctor. Yes.

7 **Q.** Had you identified yourself to the
8 participants -- on days before that sweat lodge
9 day, did you tell them you were a doctor?

10 **A.** Randomly it came up in a conversation
11 that we were having about something else, like what
12 profession someone was in. I told -- I would --
13 yes. I would tell them what I did. But I didn't
14 make an announcement to the group.

15 **Q.** You weren't wearing a name tag saying
16 Dr. Armstrong?

17 **A.** I was not.

18 **Q.** You mentioned, then, you went over and
19 found CPR being performed?

20 **A.** So someone had said they're performing
21 CPR. I couldn't see it from where I was because I
22 was kneeled down. When I stood up, I could sort of
23 tell there were several people gathered around. As
24 I ran to where that was, I could tell they were
25 performing CPR yes.

1 **Q.** And can you show us on this exhibit,
2 which I believe is still 144 -- it is. Can you
3 show us approximately the location where it is that
4 you saw the CPR being performed.

5 **A.** I'd call it behind, but, basically, over
6 here. Like, next to the lodge but behind it, the
7 other side of it.

8 **Q.** Was it kind of in that general area?

9 **A.** Yes.

10 **Q.** Okay. And could you at that point see
11 whom was receiving the CPR, the patient?

12 **A.** Based on clothing, I could see that it
13 was a male and a female.

14 **Q.** And at that point did you know their
15 names?

16 **A.** I didn't at that exact moment. As we
17 were performing CPR and assessing the situation,
18 somebody mentioned Kirby by name. And later I
19 learned of James Shore's name.

20 **Q.** And can you tell me who it was who was
21 performing CPR when you went over to that location?

22 **A.** I cannot tell you who was performing. I
23 believe a person named Barb might have been
24 performing the compressions at that point on James.
25 And there was another woman with dark hair, who I

1 recognized as an employee of SRI -- I believe she's
2 an employee -- doing the breathing on the male
3 victim, on James.

4 And then on Kirby I have no idea who was
5 doing breathing. And I believe another Dream Team
6 member whose name was Lisa possibly was doing
7 compressions on the female victim.

8 Q. When you got over there, did you identify
9 yourself as far as -- that you were a doctor?

10 A. Yes.

11 Q. And tell us what you did, what you said.

12 A. I ran over and I -- the first person I
13 approached was on this side of the male victim. I
14 told them who I was. I said, I'm a doctor. Can I
15 help? And they said, yes. And so I, basically,
16 asked some questions. How long were they down?
17 How long have you been doing CPR?

18 And I just sort of looked and saw that
19 they were doing two-man CPR. So it was, basically,
20 a different person doing compressions than were
21 doing the breathing. And there was about three to
22 four people gathered with each person. So I just
23 sort of assessed what was going on.

24 Q. Did you learn how long they'd been doing
25 CPR?

1 A. No one answered my question.

2 Q. And at some point did you assess the
3 vitals of either of those two patients?

4 A. So the first thing I identified myself.
5 I said that -- I asked -- there was someone from
6 Angel Valley nearby as well. I sort of recognized
7 her as being in and out of the lunchroom type
8 place. And I actually confirmed that someone had
9 notified EMS.

10 And I mentioned that there was someone
11 else, Sidney, who I just came from, who also was
12 going to need EMS. And they said that EMS was in
13 route.

14 And then because I was the closest to
15 James, I asked how long it had been since we had
16 felt for a pulse, et cetera. We stopped and felt
17 for a pulse. No pulse. We continued CPR. I
18 recommended that I take over compressions because
19 CPR is very physically demanding. And so to
20 perform adequate CPR, it's important to change out
21 regularly.

22 A lot of times when you're performing
23 CPR, your adrenaline is going, so you sort of feel
24 like you can go forever. But people get tired.
25 And you want to make sure you maintain good

1 technique. So one of the things that I was doing
2 was sort of rotating in and out from each person
3 and making sure people did rotate so that we could
4 maintain effective CPR.

5 Q. Now, you mentioned you checked for a
6 pulse on the male. Did you check for a pulse on
7 Kirby?

8 A. When I had taken over compressions on
9 that side, when it was time to check, I did. Yes.

10 Q. And did she have a pulse?

11 A. At some point while I was doing
12 compressions, somebody else checked for a pulse.
13 And they said they felt a pulse. And I suggested
14 that it was probably effective CPR based on when --
15 I had just taken over, and it really wasn't time to
16 check for a pulse yet. So I continued CPR for a
17 few rounds, and then I held to check for a pulse,
18 and there was no pulse.

19 Q. And you said -- you mentioned -- you used
20 another medical term, "effective CPR." What do you
21 mean by that?

22 A. Well, just that you're doing it when you
23 are compressing -- when you're compressing the
24 chest to compress the heart, you have to do it with
25 enough force so that you are, basically, squeezing

1 the heart so that blood can flow.

2 Q. So if I was -- let's say my heart had
3 stopped and you were giving me effective CPR. If
4 you were to check my pulse, would you -- while CPR
5 is being performed, would you feel the blood
6 coursing through my neck?

7 A. That's the goal. Yes.

8 Q. Okay. Do you remember -- could you tell
9 whether James or Kirby had been wet down?

10 A. At some point I contacted their
11 clothes -- clothes or bathing suits, and they felt
12 wet.

13 Q. And you mentioned that -- the people that
14 you discussed, did you see the defendant at that
15 location?

16 A. Yes.

17 Q. Do you recall, was he there when you
18 arrived?

19 A. Yes.

20 Q. And what was he doing?

21 A. So where the male and female victim was,
22 he was standing in between.

23 Q. And at some point did you ask him about a
24 medical device?

25 A. Yes.

1 Q. Can you tell us what you asked him and
2 what his response was.

3 A. Well, he asked me if there was anything
4 else we could or should be doing. And I said, are
5 we sure they don't have or do they have an AED,
6 which is an automatic external defibrillator. It's
7 basically for use outside of hospitals. They have
8 them in malls and airports, et cetera, such that if
9 somebody would have cardiac arrest, a layperson can
10 use this device to perform resuscitations, like you
11 would in the hospital.

12 Q. And why is it that you asked about an AED
13 in this situation?

14 A. Well, since they were in cardiac arrest,
15 by using the AED, it's actually a form of
16 monitoring. And then if appropriate, if there was
17 a rhythm to their heart that would benefit from
18 shocking, this device can deliver that shock.

19 Q. Doctor, did you believe that there should
20 be an AED at that location?

21 MS. DO: Objection. Relevance.

22 THE COURT: Sustained.

23 Q. BY MR. HUGHES: Can you tell us the sort
24 of factors that one would take into account as far
25 as determining whether an AED would be appropriate

1 equipment to have?

2 MS. DO: Objection. Relevance, Your Honor.

3 THE COURT: Sustained.

4 Q. BY MR. HUGHES: When you began the CPR,
5 did you see any other medical equipment available?

6 A. I don't recall.

7 Q. Did you see an ambulance standing by?

8 MS. DO: Objection. Relevance.

9 THE COURT: Overruled.

10 THE WITNESS: No.

11 Q. BY MR. HUGHES: Do you have any idea how
12 long it took for the ambulance to arrive after you
13 began the CPR?

14 A. I do not.

15 Q. Did you ever see James or Kirby's
16 condition improve after you began the CPR?

17 A. No.

18 Q. Do you know whether they had a pulse at
19 the time you turned them over to the paramedics?

20 A. They did not.

21 Q. Can you -- do you know what the golden
22 hour is?

23 A. It's a term usually referred to in
24 prehospital care. So if something happens, like a
25 car accident, particularly with major trauma, there

1 is a period of time that if they receive care in
2 that crucial period of time, the likelihood of a
3 better outcome is higher than if they don't receive
4 care in that golden hour.

5 Q. You mentioned you had in your practice
6 treated patients with milder forms of heat illness
7 on a spectrum?

8 A. Yes.

9 Q. Can you tell us what that spectrum is.

10 A. Again, a very mild heat-related illness
11 could be a rash. It could be cramping of muscles,
12 fatigue, headache, nausea, up through heat stroke.

13 Q. And would you expect to see those
14 symptoms -- the fatigue, the nausea, and the
15 headache -- as you move along that spectrum towards
16 heat stroke?

17 A. I would expect that most people would
18 have some symptoms. But it can happen suddenly.

19 Q. How about altered level of consciousness?

20 A. That's part of the hallmark of the far
21 end of the spectrum. Yes.

22 Q. And what is the far end of the spectrum
23 called?

24 A. Heat stroke.

25 Q. And what do you mean it's a hallmark of

1 heat stroke?

2 A. Meaning most people who are having -- it
3 would be classic if someone was having heat stroke
4 to have some form of altered mental state.

5 MR. HUGHES: Your Honor, I see we've been
6 going about 90 minutes. Would you like me to take
7 a break or --

8 THE COURT: We can do that. Why don't we take
9 the evening recess.

10 Ladies and gentlemen, we will go ahead
11 and take the recess at this time. Please remember
12 the admonition and be back in the jury room,
13 please, at 9:15 tomorrow morning. We'll start as
14 soon as we can after that.

15 And, Dr. Armstrong, I'd like to talk to
16 you a minute about the rule of exclusion of
17 witnesses, which has been invoked in this case.
18 And just to remind you, that means that you cannot
19 communicate with any other witness about the case
20 or your testimony until the trial is completely
21 over.

22 It's really a good idea not to talk to
23 anyone about this case or anyone associated with it
24 until it's over. However, you can talk to the
25 lawyers as long as no other witness is present.

1 And you have to avoid all media exposure as well.
 2 Do you understand that.
 3 THE WITNESS: Yes.
 4 THE COURT: Then you are excused at this time,
 5 Dr. Armstrong, and the jury.
 6 And we'll be in recess. Thank you.
 7 (The proceedings concluded.)
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1 STATE OF ARIZONA)
 2 COUNTY OF YAVAPAI) ss: REPORTER'S CERTIFICATE
 3

4 I, Mina G. Hunt, do hereby certify that I
 5 am a Certified Reporter within the State of Arizona
 6 and Certified Shorthand Reporter in California.

7 I further certify that these proceedings
 8 were taken in shorthand by me at the time and place
 9 herein set forth, and were thereafter reduced to
 10 typewritten form, and that the foregoing
 11 constitutes a true and correct transcript.

12 I further certify that I am not related
 13 to, employed by, nor of counsel for any of the
 14 parties or attorneys herein, nor otherwise
 15 interested in the result of the within action.

16 In witness whereof, I have affixed my
 17 signature this 28th day of March, 2011
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23 -----
 24 MINA G. HUNT, AZ CR No 50619
 25 CA CSR No. 8335

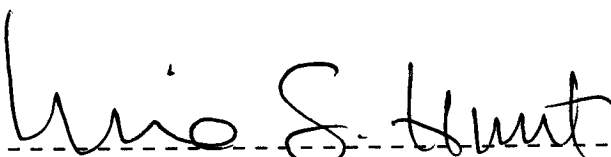
1 STATE OF ARIZONA)
2 COUNTY OF YAVAPAI) ss: REPORTER'S CERTIFICATE
3

4 I, Mina G. Hunt, do hereby certify that I
5 am a Certified Reporter within the State of Arizona
6 and Certified Shorthand Reporter in California.

7 I further certify that these proceedings
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